

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 100009-EI

In the Matter of:

NUCLEAR COST RECOVERY CLAUSE.

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VOLUME 6

Pages 1384 through 1489

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PROCEEDINGS: HEARING

COMMISSIONERS PARTICIPATING: CHAIRMAN NANCY ARGENZIANO  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER NATHAN A. SKOP  
COMMISSIONER ART GRAHAM  
COMMISSIONER RONALD A. BRISÉ

DATE: Thursday, August 26, 2010

TIME: Commenced at ~~9:30~~ <sup>9:46 - ac</sup> a.m.  
Concluded at 6:09 p.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

APPEARANCES: (As heretofore noted.)

DOCUMENT NUMBER (201)  
07436 SEP-30  
FPSC-COMMISSION CLERK

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I N D E X

WITNESSES

NAME:	PAGE NO.
TERRY O. JONES	
Questions by Commissioners	1387
Cross Examination by Mr. McGlothlin	1421
Cross Examination by Mr. Moyle	1428

1  
2  
3  
4  
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6  
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EXHIBITS

NUMBER:		ID.	ADMTD.
242	FPL's Responses to Staff's Fourth PODs	1412	

## P R O C E E D I N G S

(Transcript follows in sequence from  
Volume 5.)

**CHAIRMAN ARGENZIANO:** Commissioner Skop,  
you're recognized.

**COMMISSIONER SKOP:** Thank you, Madam Chair.

And I just want to pick up where we left off  
before lunch. Just one point in passing, and I hate to  
belabor the point, but I think it will become important  
because I'm sure it will come up on redirect.

Mr. Jones, the letter that Mr. Anderson signed  
dated August 23rd, that informed the Commission after  
the NRC response letter had been posted in the  
Commission's docket, the FPL letter that was provided to  
the Commission subsequent to that on the 23rd, did you  
review that letter before it was sent to the Commission  
or did Mr. Anderson ask you to review that letter?

**THE WITNESS:** Yes, I did.

**COMMISSIONER SKOP:** Okay. And do you have a  
copy of that letter in front of you?

**THE WITNESS:** No, I do not.

**COMMISSIONER SKOP:** Okay. Subject to check,  
would you concur that that's basically a one paragraph  
letter?

**THE WITNESS:** Yes. As I recall it's about one

1 paragraph.

2 **COMMISSIONER SKOP:** Is there is any reason why  
3 it would take ten days to prepare a one-paragraph letter  
4 to notify the Commission of this information?

5 **THE WITNESS:** No, it doesn't take ten days to  
6 write a one-paragraph letter.

7 **COMMISSIONER SKOP:** Thank you. And I won't  
8 belabor that point, but I had just anticipated that  
9 something might arise, so I thought I would address it  
10 before it came up.

11 I want to turn your attention real quick to  
12 the staff audit report and cover a technical issue with  
13 you. And if you could please turn your attention to  
14 Page 34 of the staff audit report.

15 **THE WITNESS:** Do I have that report?

16 **CHAIRMAN ARGENZIANO:** Make sure he has a copy.

17 **COMMISSIONER SKOP:** Okay. Are you with me?

18 **THE WITNESS:** I have the report.

19 **COMMISSIONER SKOP:** If I could ask you to turn  
20 to Page 34 of the report where it discusses pressure  
21 discrepancies.

22 **MS. HELTON:** Excuse me, Madam Chairman, and  
23 Commissioner Skop, if I could just say for purposes of a  
24 clear record that that has already been marked as  
25 Exhibit Number 77.

1                   **CHAIRMAN ARGENZIANO:** Thank you. Did you  
2 ask --

3                   **MR. YOUNG:** I'm sorry, Ms. Helton. I gave  
4 Ms. Helton the wrong information. If you flip the  
5 page --

6                   **CHAIRMAN ARGENZIANO:** It's not 77.

7                   **MR. YOUNG:** No, ma'am. It's Number 178.

8                   **CHAIRMAN ARGENZIANO:** Quite a bit of  
9 difference. Okay, 178. Thank you.

10                   Commissioner Skop.

11                   **COMMISSIONER SKOP:** Thank you, Madam Chair.

12                   Mr. Jones, do you see the passage entitled  
13 Pressure Discrepancies on Page 34 of the staff audit  
14 report?

15                   **THE WITNESS:** Yes, I do.

16                   **COMMISSIONER SKOP:** Okay. And can I ask you  
17 to read the first sentence with the exception of the  
18 confidential number at the end of that sentence, please?

19                   **THE WITNESS:** You want me to read that out  
20 loud?

21                   **COMMISSIONER SKOP:** Yes, please, with the  
22 exception of the confidential.

23                   **THE WITNESS:** Okay. FPL has found  
24 discrepancies between the design pressure used for the  
25 Siemens turbine upgrade contract and actual plant

1 parameters and estimates a cost to resolve this issue  
2 will reach -- and that part is redacted.

3 **COMMISSIONER SKOP:** Okay. All right. Would  
4 it be correct to understand that what this pertains to  
5 is that the steam header pressure or the existing steam  
6 header pressure and the turbine inlet pressure, there's  
7 a mismatch between the design specification that was  
8 specified for the inlet pressure to the turbine?

9 **THE WITNESS:** Yes, Commissioner Skop, if I  
10 could explain that. As you are very much aware,  
11 whatever heat is produced from the reactor is  
12 transferred through the steam generator and you expect a  
13 certain steam generator pressure. And then from the  
14 steam generator you have a number of components between  
15 the steam generator and the turbine, and so there is  
16 some pressure loss through those components. And what  
17 this is -- and so this is to that issue in that as a  
18 part of the early specification for the turbine there  
19 are heat rates that are run by Shaw Engineering, basic  
20 modeled heat rates that look at the desired reactor  
21 output, and then it looks at -- it takes the design  
22 basis documents, the original vendor information for the  
23 several components to which those vendors have  
24 performance specs which would, through engineering  
25 analysis, tell you what the pressure loss in that line

1 would be.

2 So if you picture, you know, a garden hose run  
3 really far out into the yard or the street, by the time  
4 you get to the end of that there is very little water  
5 pressure so to speak. And so early on in the project,  
6 through engineering analysis and through the vendor  
7 information for each of those components, there was a  
8 pressure drop calculated. And so based on that, you  
9 communicate that early information to Siemens.

10 The overall project plan is do the engineering  
11 analysis on what the performance should be, then go do  
12 field testing to verify actual performance. Following  
13 that actual field testing to validate performance, then  
14 you go back and finalize your design specification with  
15 your turbine supplier, in this case which is Siemens.

16 In this case, the existing instrumentation and  
17 test points at Turkey Point -- Turkey Point is a real,  
18 I'm not going to say old, it's an old plant. And the  
19 test points that were needed weren't there, and so there  
20 was a modification to add the test points during a  
21 refueling outage and then there was testing that was  
22 performed throughout the year to verify the actual plant  
23 conditions, compared that to the heat rate, which was  
24 part of the project plan, and we had about 40 pounds per  
25 square inch less than what we had desired. Which then



1 would cause us to take one of several paths. We could  
2 revise the turbine spec, because the turbine isn't  
3 designed yet. Siemens is waiting for that input. And  
4 so this is a perfect example in a project where there  
5 are logic ties. You must do this before you do that,  
6 and you must do this before you do that. And so Siemens  
7 is not allowed to proceed until we've done the in-field  
8 verifications, fed that back to Shaw, who did the  
9 original heat rate to get that final specification for  
10 that turbine.

11           So with the pressure drop greater, which is an  
12 existing plant condition from the original design, we  
13 either needed to change the turbine design to  
14 accommodate that lower pressure, which would have meant  
15 fewer megawatts than what we wanted, or evaluate other  
16 alternatives, such as removing those 1960 vintage  
17 components and upgrading those components so there would  
18 be less line loss and so more of the energy from the  
19 reactor could get to the turbine, or increase the  
20 average temperature of the reactor coolant system, which  
21 would have the same effect as replacing the obsolete  
22 components.

23           So we went through a decision-making process  
24 and ultimately -- and we did an economic analysis by our  
25 resource planning people, and it was very cost-effective

1 to just replace the obsolete components rather than  
2 sacrifice the megawatts.

3 **COMMISSIONER SKOP:** Okay. With respect to  
4 that in terms of the design point or design  
5 specification discrepancy, has there been any root cause  
6 analysis done to determine who was responsible for  
7 specifying the steam inlet pressure versus what the  
8 actual header pressure would have been?

9 **THE WITNESS:** No, there was no root cause. As  
10 I said, Commissioner Skop, the project plan starts with  
11 the unit heat rate, and that analysis is performed by  
12 Shaw. Shaw doesn't have any in-plant data because the  
13 test points don't exist. So they have to use the vendor  
14 specifications for the components.

15 The vendor specifications for the components  
16 that were installed back in the late '60s, and, you  
17 know, the plant went on line in '72, those numbers from  
18 those original manufacturers would have indicated less  
19 of a pressure drop than real conditions.

20 **COMMISSIONER SKOP:** Okay. And that's my  
21 question. To the extent that the plant is relatively  
22 old, and design specifications would have been what they  
23 were with the existing equipment, and that equipment may  
24 foul or degrade over time causing, you know, additional  
25 pressure drop over design specification at the time, was

1 there no cross-check done to actual plant parameters of  
2 the steam header pressure?

3 **THE WITNESS:** Oh. Yes, I understand your  
4 question. The components actually hadn't degraded.

5 **COMMISSIONER SKOP:** Okay.

6 **THE WITNESS:** It's that like for main steam  
7 isolation valve, the engineering factors without getting  
8 into a lot of detail would assume, say, for sake of  
9 argument, a five-pound pressure drop. Actual measured  
10 condition when we install a pressure tap during the  
11 outage between that valve and another valve, the  
12 measured differential pressure was higher. So Shaw used  
13 the correct design input parameters, but we didn't have  
14 a way to field verify that particular point without  
15 installing the test taps.

16 **COMMISSIONER SKOP:** Okay. Well, I think the  
17 test tabs would have determined the differential  
18 pressure, or at least the pressure drop across any piece  
19 of either a valve or fitting, if you would. And you  
20 might have to do that in sequence across the steam  
21 header for the main steam valve, the main shutoff  
22 valves, or whatever is in there. I don't want to get  
23 into too much technical mumbo-jumbo detail.

24 **THE WITNESS:** Sure.

25 **COMMISSIONER SKOP:** But it seems to me that

1 you know what your steam inlet pressure would be, or  
2 steam chest pressure would be, and you know what actual  
3 plant parameters currently deliver to the existing  
4 turbine. And it seems to me that that would be the  
5 basis for -- notwithstanding the design specification  
6 and what FPL would seek to achieve, but you would think  
7 somebody would cross reference the design specification  
8 data against the actual data which isn't looking at the  
9 pressure drop, it's a summation of all those pressure  
10 drops at the steam inlet to the turbine -- existing  
11 turbine. Does that kind of make sense?

12 **THE WITNESS:** It definitely makes sense to me.  
13 Those are the same questions that I asked is was there  
14 any way that we could have got a rough order of  
15 magnitude by looking at other plant installed  
16 instrumentation. The critical pressure, as you say, is  
17 the inlet pressure to the turbine. Unfortunately,  
18 the -- and so I do know what the steam chest pressure  
19 is, it's before the steam gets to the first moving set  
20 of blades in the turbine.

21 If you picture a turbine, it's just a big  
22 fancy fan, and you are going to blow steam through the  
23 blades and make it spin. So we are interested in what  
24 the pressure of the steam is right before the blades on  
25 this turbine. And that is certainly a parameter that

1 you can walk into the control room and see what that is.

2 The turbine upgrade and design, however, is  
3 changing the turbine control valves. The turbine  
4 control valves at Turkey Point are sequentialed and  
5 throttled, and so, therefore, there is a pressure drop  
6 across those. So that current steam chest pressure to  
7 me is meaningless at this point. I can't make a  
8 comparison.

9 However, to your point, though, you know,  
10 upstream of that is a steam header pressure to the  
11 turbine that is not a calibrated gauge and so it could  
12 be off, you know, 20 maybe 30 pounds. And so it would  
13 give you some information. However, it is not a  
14 calibrated gauge. But to that point, but to that point,  
15 the team was on the project timeline to do -- to install  
16 the test points and get actual field conditions.

17 Could they have known earlier? They could  
18 have had an indication earlier that the pressure could  
19 have been off by some amount. They still would have had  
20 to install the test ports, and they still would have had  
21 to collect all the in field data to validate, which was  
22 done toward the end of the year.

23 **COMMISSIONER SKOP:** Okay. And, again, what I  
24 was interested in, and maybe I got a little bit more  
25 detail to the steam chest pressure and the throttle

1 valve. What I was more concerned with is the header  
2 pressure right before you go into the turbine controls  
3 that would give you some -- at least a critical check  
4 and balance on does the design specification match up  
5 with actual plant parameters within a range of  
6 uncertainty that one could, you know, estimate to check  
7 and see.

8 Because, again, looking at the confidential  
9 numbers and the summation of the two numbers that are  
10 remaining to be confidential, and without disclosing  
11 those numbers, those numbers are not insignificant.  
12 There may be some, you know, benefit to replacing aged  
13 equipment, but there is still a cost impact as a result  
14 of the pressure discrepancies, and somebody -- the  
15 ratepayers are going to have to ultimately pay for that  
16 unless it's found to be imprudent.

17 So that's where, I think trying get to the  
18 bottom of this new development is at issue. Sometimes  
19 things happen, but it's important, I think, to get a  
20 better understanding because the two dollar amounts  
21 there are almost as much as it has been requested for  
22 the EPU for the 2011 projected cost. I mean, that is  
23 not giving anything away, it is just order of magnitude.  
24 So I think that addresses the technical question I had.  
25 And I want to go back now to some remaining questions.

1           **THE WITNESS:** Commissioner Skop, could I  
2 clarify?

3           **COMMISSIONER SKOP:** You may.

4           **THE WITNESS:** Yes. It was always a part of  
5 the project plan to do the heat rate so that Siemens  
6 could start work, you know, preliminary engineering  
7 design type work. It was always part of the project  
8 plan to go modify the plant, to install test points so  
9 that we could get the detailed accurate information,  
10 because that critical parameter needs to be within 12  
11 psi. It can accommodate about a 12-psi margin, and that  
12 plant was followed. I think that everyone was expecting  
13 it to just be okay.

14           Even if they would have discovered it six  
15 months earlier, it doesn't change the output. The  
16 output is still either don't replace the components with  
17 components that have less pressure drop, and we  
18 certainly could do that, and the turbine would be  
19 designed at that spec, but you would have lower  
20 megawatts. But the cost associated with those  
21 modifications, which the last time I looked for the  
22 modifications was around \$34 million, is very  
23 cost-effective. It's a positive MPV of about  
24 \$116 million benefit to our customers to make that  
25 modification. If it would have been a negative MPV, we

1 would have said, no, we are not going to replace those  
2 components, those megawatts are too expensive. Does  
3 that make --

4 **COMMISSIONER SKOP:** I think it makes sense. I  
5 think what I'm trying to drive out without, you know,  
6 questioning, you know, management action, is that there  
7 has been a discrepancy that was identified, and there is  
8 costs associated with resolving that issue and also some  
9 costs to resolve the differences and change the steam  
10 header line-up in terms of the steam isolation valves,  
11 main steam pressure valves, whatever is in there going  
12 from memory.

13 But I think my concern would be, and certainly  
14 that may have been part of the plan, but, obviously,  
15 putting the pressure taps in and determining the actual  
16 pressure drop between the respective valves and fittings  
17 at some point could that work? And I'm not trying to  
18 armchair quarterback the decision that was made, but I'm  
19 just trying to look in totality should that work have  
20 been, perhaps, done prior to specifying the design  
21 pressure used for the Siemens turbine, or could that  
22 have been reserved, or did the turbine contract needed  
23 to be, you know, executed and moved forward to preserve  
24 the schedule. But, again, there is a cost impact  
25 associated with whatever happened. And I'll leave it to



1 the intervenors after I'm gone to hash that one out.  
2 But I'm just trying to get some visibility into, you  
3 know, how did this arise and, you know, what are the  
4 costs to remedy the pressure discrepancies that have  
5 been found.

6 **THE WITNESS:** Yes, I'd like to explain.

7 **COMMISSIONER SKOP:** Please do.

8 **THE WITNESS:** Okay. To preserve the megawatt  
9 guarantee that we have contractually with Siemens, there  
10 are a lot of specific data points that they want  
11 collected, so that's part of the driver. So that's one  
12 reason to go install a lot of test ports. In fact, on  
13 Unit 3, this fall outage we'll be installing some test  
14 pressure taps inside the Unit 3 condenser.

15 These particular test points, the plant needed  
16 to be shut down, depressurized, and cooled down to  
17 install these because they are in the main steam system,  
18 which at power is normally 800 psi, as I know you are  
19 aware. The question could the testing have been done  
20 like immediately following the outage? It could have.  
21 It wasn't scheduled that way because we didn't need that  
22 final input until much further downstream. Siemens was  
23 not ready -- Siemens was not scheduled to go to  
24 manufacturing until a certain point. So the project  
25 plan was laid out to this outage do the test points, and

1 then you had this number of months to do the actual  
2 in-field measurements, feed it back to Shaw, who did the  
3 heat balance. So I did want to be clear that Shaw  
4 didn't make any error. Their inputs were off of paper  
5 and components that were installed in 1970 or whatever  
6 may perform exactly as designed, may perform a little  
7 different.

8 And so, therefore, I just want to be clear  
9 that it is not added cost. I could have chose to spend  
10 zero dollars, and the components that are currently  
11 installed are perfectly fine, and will be there for the  
12 next 20 years. But there was an opportunity for those  
13 megawatts with the net present value benefit to our  
14 customers, and so it was a business decision. Now, we  
15 could have made that business decision earlier, but at  
16 the end of the day it doesn't matter.

17 **COMMISSIONER SKOP:** Okay. And the reason I  
18 ask, Mr. Jones is, again, the pressure discrepancies  
19 were identified in this iteration of the staff audit  
20 report which is -- let me make sure I'm looking at it,  
21 the one that was issued in July 2010. This was not, I  
22 don't believe and I have it in front of me, in last  
23 year's report. So, again, this seems to be an emerging  
24 issue. And I'm not suggesting that Shaw did anything  
25 wrong other than rely on the existing, you know,

1 as-built specification given the hardware that was  
2 spec'd out for the steam header, but that would not be  
3 intuitively obvious to me from reading the summary  
4 contained in the staff audit report. That part is kind  
5 of left out. So I think that is where my line of  
6 questioning originates from is, okay, here is an issue,  
7 is there a root cause to the issue, and then here is the  
8 cost to remedy the issue.

9 But, certainly, there does seem to be a cost,  
10 and I know you said there wasn't because you did the,  
11 you know, financial analysis on the net present value  
12 requirement. But the last sentence in Page 34 seems to  
13 suggest there is an increase in project costs to resolve  
14 the differences.

15 So, again, I'm not sure, and I'm not sure  
16 whether the Commission has been provided with that  
17 additional analysis, financial analysis that has been  
18 performed to ascertain whether, you know, the various  
19 options there. So, that's the question. You know, I  
20 don't want to get too much into that. I think you have  
21 addressed my concerns. I will leave it to the  
22 intervenors. But we need to try and get some  
23 transparency of what's going on there. It seems like  
24 FPL and the vendors did what they were supposed to do,  
25 but relating that back to loss or gain of uprate and

1 generation capability, that's something that the full  
2 picture is not there for me, so that's why I asked those  
3 specific questions. And I think we can move on from  
4 here on that one, unless you have anything to add on  
5 that.

6 **THE WITNESS:** Yes, Commissioner, we did  
7 provide to audit staff our detailed white paper that did  
8 go back and look at that overall timeline. It did look  
9 at several options, and it is including a  
10 decision-making white paper that we wrote and provided  
11 to senior management on or about -- the date of the  
12 report was March 11th, 2010, when we brought it to  
13 conclusion as to whether to modify or not modify.

14 **COMMISSIONER SKOP:** Okay. And just to follow  
15 up on a couple of different lines of question, and then,  
16 hopefully, we can wrap this up. You mentioned that FPL,  
17 after it removed the EPU senior management team, started  
18 looking at options of self-performing work remaining on  
19 the EPU, looking at other EPC contractors, and I think  
20 you mentioned High Point as one of them. And, again, I  
21 have confirmed that is not confidential, at least from  
22 the redacted information I'm looking at, because I saw  
23 the word unredacted. So I don't think that is a  
24 problem. But ultimately FPL decided not to shift the  
25 work to a different EPC contractor, is that correct?

1           **THE WITNESS:** That is correct. We ultimately  
2 decided to retain Bechtel as the EPC. We decided to  
3 take some portions of the work, such as start-up  
4 testing, and do that in-house. And we looked at some  
5 specific engineering and gave that to other companies  
6 that we thought could do it more efficiently. But as  
7 the overall engineering procurement contractor, we did  
8 decide to stay with Bechtel because at the end of the  
9 day we thought that the energy and effort to switch  
10 horses, if you will, at this point, demobilized Bechtel,  
11 mobilized a new EPC was -- any cost/benefit we would get  
12 there would negate the cost/benefit that we were looking  
13 for.

14           **COMMISSIONER SKOP:** Okay. And that was my  
15 point. Again, I can try and look if up, but I won't  
16 belabor that. I guess the conclusion in relation to not  
17 going towards a new EPC contractor, that it would be  
18 cost prohibitive in doing such when you look at those  
19 additional ramp-up costs, and termination costs, and all  
20 the things that go into that. So it was  
21 more financially driven rather than benefit driven, is  
22 that correct?

23           **THE WITNESS:** I'm not sure I understand your  
24 question.

25           **COMMISSIONER SKOP:** Okay. Somewhere in the

1 voluminous record -- again, one of the reasons -- they  
2 may be in the Concentric report, but I believe one of  
3 the reason why they did not go with an alternate EPC  
4 contractor was because it would have been cost  
5 prohibitive in terms of gaining any benefit as opposed  
6 to staying with the existing contractor at this point,  
7 is that correct? I mean, I can try and look for it real  
8 quick, but --

9 **THE WITNESS:** Yes, Commissioner. In effect,  
10 to demobilize Bechtel there would have been costs  
11 associated with that, mobilize a second EPC, there would  
12 have been costs associated with that, and the disruption  
13 to the project, we felt was too great a risk to take.

14 **COMMISSIONER SKOP:** All right. That resolves  
15 that question. Let's talk real quick about -- you  
16 mentioned that you assumed the position of Vice  
17 President of Nuclear Power Uprate on or about  
18 August 1st, 2009, and prior to that you worked for  
19 NextEra, specifically on the Point Beach project, is  
20 that correct? Or one of the -- your Midwest manager  
21 type of position.

22 **THE WITNESS:** To clarify if I may, I am an  
23 employee of Florida Power and Light Company. I work for  
24 the nuclear fleet. My assignment was to the affiliate  
25 company to which the customers do not pay for that. I

1 was the vice-president of operations for Midwest. As  
2 far as EPU for that particular plant, that was a project  
3 being done for my plant. I did not have responsibility  
4 for the actual project, just the results.

5 **COMMISSIONER SKOP:** And so to be clear, Point  
6 Beach is a nuclear unit operated by the unregulated  
7 entity which is now, I believe, Next Energy, NextEra  
8 Energy Resources, is that correct?

9 **THE WITNESS:** Yes, sir.

10 **COMMISSIONER SKOP:** Okay. And with respect to  
11 Point Beach, do you know what the -- you mentioned in  
12 your testimony your reference to LAR. Do you know what  
13 the status of the LAR is for Point Beach at this time?

14 **MR. ANDERSON:** Chairman Argenziano, I would  
15 like to be heard very briefly.

16 **CHAIRMAN ARGENZIANO:** Yes.

17 **MR. ANDERSON:** This proceeding involves  
18 Florida Power and Light Company's Florida plants. It  
19 does not involve in any respect our sister companies'  
20 plants in other parts of the country.

21 **COMMISSIONER SKOP:** Madam Chair, to the  
22 objection.

23 **CHAIRMAN ARGENZIANO:** Commissioner Skop.

24 **COMMISSIONER SKOP:** It's relevant. I'm laying  
25 a foundation for my next question. The status of --

1 merely it is inquiring about the status of the LAR, and  
2 just merely ask the witness if he knew of the status of  
3 the LAR. And it's simply a yes or no. I don't plan  
4 to --

5 **MR. ANDERSON:** That's fine.

6 **CHAIRMAN ARGENZIANO:** Okay.

7 **THE WITNESS:** Yes, I know the status of the  
8 extended power uprate License Amendment Request for  
9 Point Beach.

10 **COMMISSIONER SKOP:** Okay. And feel free to  
11 object. Can you tell me what that status is?

12 **THE WITNESS:** Yes. That status is -- it is in  
13 the review and approval part of it. As I mentioned  
14 earlier, the NRC's process has an acceptance review  
15 which they can take up to two months. And once they  
16 have agreed to accept it, then they get into a much more  
17 detailed review for that License Amendment Request, and  
18 that is the process that we are in with Point Beach.

19 **COMMISSIONER SKOP:** Okay. And just a very few  
20 remaining questions. The nuclear division is organized  
21 at FPL, but it's intertwined to some degree to the  
22 extent that it has the entire fleet, both unregulated  
23 reactors and existing reactors under the nuclear  
24 division, is that correct?

25 **THE WITNESS:** That is correct. We operate as



1 a nuclear fleet.

2 **COMMISSIONER SKOP:** Okay. I guess the  
3 question that I would ask is, is the fact that, you  
4 know, you have limited resources to accomplish projects,  
5 and I think you've mentioned the organizational  
6 structure. It was detailed with great specificity in  
7 last year's audit report with the org chart, and we have  
8 talked about the management changes. Is that combined  
9 organization -- are there sufficient resources available  
10 that allow or don't impact the ability to execute the  
11 EPU completion on cost and schedule as it pertains to  
12 the regulated units?

13 Let me reframe my question. You have the  
14 nuclear division which has unregulated and regulated  
15 plants as a fleet, okay. But we have specific issues  
16 related to EPU and new construction in Florida, as well  
17 as the unregulated entity has their own business  
18 segment. My question is, is that organizational  
19 structure as a whole impacting the ability of FPL to  
20 execute the EPU completion on cost and schedule?

21 **THE WITNESS:** No, Commissioner. As far as the  
22 other company is concerned, they have their extended  
23 power uprate team. St. Lucie and Turkey Point each have  
24 theirs. There are always resource challenges in any  
25 business or any major activity, so we do -- we will

1 supply people, you know, within the fleet to wherever  
2 there is a need, and we will properly allocate those  
3 costs, and then we will either backfill that position,  
4 or we may have some regular employee backfill, or we may  
5 use a contractor to substitute.

6 And we don't just do that within the nuclear  
7 fleet. I have gotten people from our other business  
8 units within the company to come on the project either  
9 on a project bound basis, temporary basis, and so we do  
10 move resources around. But as with any -- EPU aside,  
11 EPU aside, just running the day-to-day business within  
12 the nuclear fleet or within our non-nuclear fleet, there  
13 is always pressure on resources and challenges with  
14 that, but not to the extent that I'm worried about  
15 resources being a major risk for the project.

16 **COMMISSIONER SKOP:** Okay. Thank you. I'm  
17 just -- I am going to need to have you reference a  
18 confidential document at this point. And, staff, the  
19 Bates page I'm looking at, this is what has been marked  
20 as POD-29. And the Bates page specifically is 153493 of  
21 NCRC-10. And if we could pass out copies to the witness  
22 and the Commissioners, perhaps.

23 **MR. ANDERSON:** Which number was that, again,  
24 please?

25 **COMMISSIONER SKOP:** It's what has been marked

1 for identification -- or, actually, it's not marked, but  
2 it is POD-29, and the Bates page is FPL 153493 NCR-10.

3 **THE WITNESS:** I'm sorry, Commissioner, could  
4 you repeat that number?

5 **COMMISSIONER SKOP:** Yes. The number -- and,  
6 like I say, it's probably going to have to get looked at  
7 so everyone can follow along, but it's FPL 153493 is the  
8 number I have.

9 **THE WITNESS:** 153493.

10 **COMMISSIONER SKOP:** And that's at the top  
11 right-hand corner.

12 And, staff, if I can get a copy of that  
13 confidential document after all, because, again, there  
14 may be a mismatch between the pages I have and the one  
15 you passed out. So I just want to double-check that I'm  
16 on the right page.

17 **MS. HELTON:** Madam Chairman.

18 **CHAIRMAN ARGENZIANO:** Yes.

19 **MS. HELTON:** Just so we can have a clear  
20 record, staff is telling me that this has not been given  
21 any kind of an exhibit number, and I'm just wondering  
22 whether it should be in case it is admitted into the  
23 record so that we will have a clear record.

24 **CHAIRMAN ARGENZIANO:** Commissioner Skop?

25 **COMMISSIONER SKOP:** We can mark it for

1 identification. I don't usually move exhibits, but we  
2 need to do what we need to do.

3 **MS. HELTON:** I just think that might be  
4 better.

5 **CHAIRMAN ARGENZIANO:** To give it a number.

6 **MS. HELTON:** I think Ms. Bennett would like to  
7 do that.

8 **COMMISSIONER SKOP:** All right. Thank you.

9 **MS. BENNETT:** It's a set of documents in its  
10 entirety that we were going ask to be moved into the  
11 record, and they are almost all confidential. It is  
12 Document Number 06790-10 in our case management system,  
13 and that's all of FPL's responses to Staff's Fourth  
14 Production of Documents. And I believe Commissioner  
15 Skop is asking questions on POD Number 29, which  
16 consists of several hundred pages.

17 **COMMISSIONER SKOP:** Okay. And, staff, like I  
18 say, because this is being thrown on Commissioners, can  
19 we have someone from staff help everyone on the bench  
20 get to the page. Is everyone there?

21 **CHAIRMAN ARGENZIANO:** Okay.

22 **COMMISSIONER SKOP:** Okay.

23 **CHAIRMAN ARGENZIANO:** I think so.

24 **MR. YOUNG:** And, Madam Chairman, for  
25 identification purposes, that will be Exhibit Number

1 242.

2 **CHAIRMAN ARGENZIANO:** 242.

3 **MR. YOUNG:** Yes, ma'am.

4 **CHAIRMAN ARGENZIANO:** And what did we title  
5 it, Commissioner Skop? What did we call it?

6 **COMMISSIONER SKOP:** Ms. Bennett. I'd call it  
7 Concentric Report, but --

8 **MS. BENNETT:** The name of the document?

9 **CHAIRMAN ARGENZIANO:** Yes, please.

10 **MS. BENNETT:** Let's short title it FPL's  
11 Responses to Fourth PODs, Staff's Fourth PODs.

12 **CHAIRMAN ARGENZIANO:** Thank you.

13 (Exhibit 242 marked for identification.)

14 **CHAIRMAN ARGENZIANO:** You're recognized.

15 **COMMISSIONER SKOP:** Thank you, Madam Chair.

16 At the beginning of that document, if we go  
17 seven pages in, that should be that Bates number,  
18 because the bottom of the page is numbered Page 7 of 23.

19 **CHAIRMAN ARGENZIANO:** Okay.

20 **COMMISSIONER SKOP:** Okay. Mr. Jones, are you  
21 at that page, which is Bates mark stamped FPL 153493?

22 **THE WITNESS:** Yes, I am.

23 **COMMISSIONER SKOP:** And do you see the deleted  
24 comment at the top right of that page?

25 **THE WITNESS:** Yes, I do.

1                   **COMMISSIONER SKOP:** Okay. With respect to  
2 that comment in my prior line of questioning regarding  
3 whether there was sufficient level of effort dedicated  
4 to ensuring that FPL's ability to execute the FPL EPU  
5 effort on cost and schedule, should that comment factor  
6 in that analysis, given the extent of, for lack of a  
7 better word, time that was dedicated within the scope of  
8 that comment without getting into too much detail? If  
9 you read the comment, I think it should be somewhat  
10 evident where I'm going with that.

11                   **THE WITNESS:** Yes, I've read the comment. I  
12 don't know -- I can't speak to what portion of the team  
13 was involved in the activity that's referenced here and  
14 what the impact was. In other words, it's not clear if  
15 we're talking an entire group of people or some portion  
16 of the team, and so I can't draw any conclusion from  
17 that, that comment.

18                   **COMMISSIONER SKOP:** All right. Well, let me  
19 try and help home in on the point that concerns me. The  
20 first sentence, obviously that is going to address the  
21 location. The second sentence addresses the team, the  
22 time, and, I guess, perhaps the location. And then the  
23 remaining portion of that addresses what occurred  
24 subsequent to that. And I guess my -- where I'm going  
25 with this in the line of my previous question is this

1 occurred shortly before the July 25th type meeting and  
2 probably at the same time that all this, you know, cost  
3 data for the Florida based proceedings would have been  
4 prepared and testimony would have been filed. So that  
5 is kind of where I'm getting to on that.

6 **THE WITNESS:** Yes, I understand. And I  
7 understand the location. In regard to the second  
8 sentence, I don't know if that's the entire team, a  
9 portion of the team. The team I do know at that time  
10 was quite large, and so I cannot offer what, if any,  
11 impact that had on the Florida project. There's just  
12 not enough information to know.

13 I would tell you that it's not unusual. In  
14 fact, it's more the norm in our nuclear fleet that when  
15 we have a refueling outage, say, at St. Lucie, that a  
16 good portion of our staff will go and provide additional  
17 oversight and monitoring at St. Lucie. That doesn't  
18 mean they stop everything they are doing, but it means  
19 they do spend a portion of their day evaluating  
20 performance and assisting during a refueling outage.  
21 And so this statement, it doesn't go to what type of  
22 effort this was.

23 **COMMISSIONER SKOP:** Thank you. Two follow-up  
24 questions and then one small line of questioning, and I  
25 think we will be done. This is a draft copy of the

1 Concentric report or what ultimately became the  
2 Concentric report, and enclosed as part of the  
3 Concentric report was the employee letter. The question  
4 that I have is were you provided with a copy of the  
5 employee letter that was sent to Mr. Hay?

6 **THE WITNESS:** I read a copy of the employee  
7 concern letter. I don't recall exactly when that was.  
8 I was interviewed as a part of the Concentric  
9 investigation, and I just don't specifically recall if  
10 it was at that particular date or after that I saw the  
11 letter. But it is -- as you mentioned, it is an  
12 attachment to the report.

13 **COMMISSIONER SKOP:** Okay. And with respect to  
14 the report which was prepared at FPL's direction by  
15 Concentric in an independent report, were you asked to  
16 review any drafts of this report?

17 **THE WITNESS:** Yes, I did review drafts of the  
18 Concentric report, and I provided my verbal comments,  
19 feedback to the Concentric report in regards to things  
20 such as timeline or facts in the report.

21 **COMMISSIONER SKOP:** Okay. And if I could ask  
22 you to turn to the first page. Actually, let me get the  
23 right Bates number page, that would probably be the best  
24 way to go about this. I may have to shift documents on  
25 us.



1 Ms. Bennett, if you could help me out. I'm  
2 looking at the same confidential document, POD-29, and  
3 the page is Bates Page FPL 153197. Let me see if that's  
4 in the same grouping. I think that may be actually in a  
5 different document, so if you could help everyone get to  
6 that. This is -- right, that's the page we are all  
7 looking for. So if we can get the witness a copy and  
8 the Commissioners.

9 (Inaudible comment; microphone off.)

10 Yes, 153197. I believe it is the first page  
11 of a separate document in that stack they gave you with  
12 a big green comment box. Okay. Is everyone there?

13 All right. Mr. Jones, if I could ask you to  
14 review what has been marked for identification as  
15 Exhibit Number 242, Bates Page FPL 153197, and the  
16 comment at the top right corner of this document.

17 **MR. ANDERSON:** We are still catching up with  
18 you over here for a moment.

19 **CHAIRMAN ARGENZIANO:** Let's make sure  
20 everybody is caught up before we move on. If you will  
21 just indicate when you are ready.

22 **MR. ANDERSON:** We're there now. Thank you for  
23 the help.

24 **COMMISSIONER SKOP:** And, Mr. Jones, have you  
25 had an opportunity to review Bates Page FPL 153197,

1 which is Page 1 of 20 of that document?

2 **THE WITNESS:** Yes, I have.

3 **COMMISSIONER SKOP:** Okay. In a prior line of  
4 questioning we discussed the Executive Steering  
5 Committee meeting that was held on or about July 25th,  
6 2009, and I asked you a question as to who may have  
7 requested that meeting.

8 **THE WITNESS:** Yes.

9 **COMMISSIONER SKOP:** Does that comment give  
10 some clarity to who may have requested that meeting and  
11 the line-by-line review that we discussed?

12 **THE WITNESS:** That comment makes a statement  
13 as to who requested the line-by-line.

14 **COMMISSIONER SKOP:** Okay. And you stated that  
15 that person, which I believe you previously testified  
16 was the president and chief operating officer of FPL  
17 Group attended the meeting on July 25th, 2009, is that  
18 correct?

19 **THE WITNESS:** That is correct.

20 **COMMISSIONER SKOP:** Okay. And I don't believe  
21 that name is confidential based on my ruling and the  
22 fact that there is no protective order or challenge to  
23 the ruling on that. This document is confidential, but,  
24 however, the name of a corporate officer of FPL Group, I  
25 don't believe, is confidential, so I would ask if you

1 could name that individual.

2 **THE WITNESS:** The President and Chief  
3 Operating Office of NextEra.

4 **COMMISSIONER SKOP:** At the time it would have  
5 been FPL Group, though.

6 **THE WITNESS:** It would have been FPL Group at  
7 the time.

8 **COMMISSIONER SKOP:** Okay. So could you please  
9 identify that individual, please?

10 **THE WITNESS:** That individual is James Robo.

11 **COMMISSIONER SKOP:** All right. Thank you.

12 And just one final question that I have. Just in  
13 summary, I could ask the court reporter to read back the  
14 transcript, and I would rather avoid doing that, but I'm  
15 trying to also anticipate what might be an objection  
16 from Mr. Anderson. But just to be clear, on the  
17 July 25th, 2009, Executive Steering Committee meeting,  
18 at which point a line-by-line financial review of the  
19 FPL EPU's was conducted, I believe it was your testimony  
20 that Mr. Olivera attended that meeting and that Mr. Robo  
21 attended that meeting from FPL Group.

22 Actually, let me reframe that. That Mr.  
23 Olivera as President of Florida Power and Light attended  
24 that meeting and that Mr. Robo as President and Chief  
25 Operating Officer of FPL Group at that time attended the

1 meeting on the 25th to have that line-by-line budget  
2 discussion, is that correct?

3 **THE WITNESS:** Yes, among others.

4 **COMMISSIONER SKOP:** Okay. And you also  
5 attended that meeting?

6 **THE WITNESS:** Yes, I did.

7 **COMMISSIONER SKOP:** All right. Very well.

8 Madam Chair, at this point I don't believe I  
9 have any additional questions. Let me just double and  
10 triple check here. I don't believe I have any  
11 additional questions at this point for Mr. Jones.  
12 However, I would reserve my right to ask additional  
13 questions if we get into an evidentiary hearing posture.  
14 Thank you.

15 **CHAIRMAN ARGENZIANO:** Thank you.

16 Commissioners, I think I have a question, and  
17 stop me if it's something that shouldn't be asked. I'm  
18 sure you will. The Concentric report, I guess it goes  
19 through periods of change and edits that occur, and  
20 anywhere else there is edits to either mistakes, or  
21 grammar, or technical terms, or whatever. Has it  
22 changed substantially from its initial --

23 **THE WITNESS:** Madam Chairman, prior to this  
24 hearing, I was shown the stacks of drafts for the  
25 Concentric report. Prior to being shown that, just

1 prior to the hearing, I had no knowledge of how many  
2 drafts there were. I know that I reviewed at least two  
3 and provided my verbal comments and feedback on that  
4 report, but I can't speak to the number of changes and  
5 whether they were all editorial, or context, or such. I  
6 would defer that to the author of the report, John Reed.

7 **CHAIRMAN ARGENZIANO:** Okay.

8 **COMMISSIONER SKOP:** May I ask a brief follow  
9 up on that?

10 **CHAIRMAN ARGENZIANO:** Commissioner Skop.

11 **COMMISSIONER SKOP:** Thank you.

12 Mr. Jones, if this was an independent effort,  
13 then how can independence be maintained if FPL  
14 management is offering its comments and suggestions to  
15 the independent investigation report? I don't get to --  
16 as an example, I don't get to do that with our staff  
17 audit report.

18 **THE WITNESS:** Well, we have a number of  
19 independent or internal reports that we commission. It  
20 could be, you know, human resources and those people  
21 that have a need to know or are close to the issues are  
22 asked to verify the facts or time line is correct. They  
23 are asked for the feedback. At the end of the day, it  
24 is up to the investigating entity to make the final  
25 decision on their report. I do not provide any written

1 comments. I do not provide any electronic editing. I  
2 just provide my perspective on tone and perspective and  
3 whether or not there was any technical errors in the  
4 drafts that I reviewed.

5 **COMMISSIONER SKOP:** Thank you.

6 **CHAIRMAN ARGENZIANO:** Thank you. And,  
7 Mr. Jones, you indicated that Mr. Reed would be the  
8 person to ask about maybe track changes and the  
9 differences.

10 **THE WITNESS:** Yes, Madam Chair.

11 **CHAIRMAN ARGENZIANO:** Thank you. Are we done  
12 with this witness?

13 **MR. YOUNG:** No, Madam Chair, I think FIPUG  
14 might have some questions.

15 **CHAIRMAN ARGENZIANO:** Oh, I'm sorry, yes. I  
16 forgot where we were.

17 **MR. McGLOTHLIN:** I just have one follow-up  
18 question.

19 **CROSS EXAMINATION**

20 **BY MR. McGLOTHLIN:**

21 **Q.** Sir, you said earlier that the uprate project  
22 had progressed from very little engineering to about  
23 20 percent engineering at this point, is that correct?

24 **A.** About 19 to 20 percent of the total number of  
25 modifications that are currently identified are

1 complete. There may be additional modifications that  
2 will be identified through the LAR engineering analysis  
3 process, and based on the NRC's review, as well as there  
4 could be additional modifications identified as a part  
5 of the design engineering. And then one other source is  
6 similar to when you are doing a little remodeling in  
7 your house, and you were going to do a simple thing like  
8 move the stove, and you discover that the conduit is in  
9 a different spot than what you expected and you're in  
10 the middle of a modification. You may have to make  
11 another modification to be able to complete the original  
12 intended modification.

13 Q. Now, your Direct Testimony also states that  
14 the nonbinding estimate is the term that you used, has  
15 increased to something like \$2.3 billion for all of the  
16 uprate projects, is that correct?

17 A. For the feasibility analysis, we used -- it is  
18 2.050 to 2.3 billion. The feasibility analysis used the  
19 upper end of that range. My forecast range for  
20 everything that I had identified as modifications, the  
21 Bechtel resource ramp, FPL ramp, as well as the known  
22 modifications at the time were at the low end of that  
23 range.

24 Q. You have also used a term level of certainty.  
25 What level of certainty do you attach to this latest

1 nonbinding effort?

2 A. P50.

3 Q. Say again?

4 A. P50.

5 Q. What's that?

6 A. P50 means that there is an equal probability  
7 of it going up as there is of it going down.

8 Q. And there are any parameters in terms of how  
9 far up or how far down that attach to P50?

10 A. I think it's important to look at the trend  
11 and the rate at which you are identifying issues and the  
12 magnitude of which you are identifying issues. That  
13 doesn't mean that you wouldn't have a discovery through  
14 testing, as we did for the steam pressure where you  
15 would need to do a business case on whether to proceed  
16 or not. But it's more important to look at the trend of  
17 discovery than, you know, just a subjective, gee, it  
18 could go here or go there.

19 Dr. Sim will report in detail on the  
20 feasibility. I do know that the needs filing that the  
21 present value for the customers was around 347 million.  
22 And I do know that for 2010, using the upper end of the  
23 2.3 billion and the 450 megawatts, that the present  
24 value is now over a billion for the customers. But, of  
25 course, there are many different factors that go into



1 that feasibility, and Dr. Sim is best suited to explain  
2 that.

3 Q. Well, my question is limited to capital costs,  
4 the price tag of completing units. And you have used  
5 the term P50, which means equal probability of  
6 increasing or decreasing, but you also said look at the  
7 trend. Now, compared to the nonbinding estimate that  
8 was presented a year ago, and using the upper end of  
9 \$2.3 billion, that is an increase of about \$500 million,  
10 is it not?

11 A. Could you restate the question?

12 Q. Comparing the nonbinding estimate that has  
13 been presented in your testimony in this case, comparing  
14 that to the high end of that range to the nonbinding  
15 estimate that was presented a year ago, that represents  
16 an increase of approximately \$500 million, does it not?

17 A. That represents a change in forecast of  
18 \$500 million if you take the 2.3 and compare it to the  
19 needs filing, that's correct.

20 Q. Now, you also said the important thing is to  
21 look at the trend. Is that the trend we should be  
22 concerned with if we are trying to get a handle on what  
23 the ultimate price tag of the uprates is going to be?

24 A. The trend you should be concerned with is the  
25 month over month and the types of engineering discovery

1 that we're having through engineering analysis and  
2 whether those are significant, medium, or low. And by  
3 that I mean as a part of this project, we have a risk  
4 management tool, and so anyone on the project or anyone  
5 external to the project if they identify anything that  
6 could impact cost, schedule, quality can raise that  
7 issue, and we will assign some probability of that  
8 occurring. We'll conceptually assign some dollar amount  
9 with that or schedule impact with that, and we'll  
10 capture that as a part of the project costs.

11 So when you are looking at that \$2.3 billion  
12 figure as the high end, about 158 million of that is  
13 what we have identified as risk. It's things that  
14 haven't come to pass, and there's opportunities to  
15 mitigate. Now, you are not going to mitigate the entire  
16 \$158 million, clearly, and you're not going to mitigate  
17 it tomorrow. Some of those things that are on that risk  
18 matrix is I've got to complete the engineering to know  
19 what the answer is, or I've got to devise a strategy to  
20 deal with it. So here is a very simple example is the  
21 secondary side of the nuclear power plant, which is all  
22 steam and water, we refer to as the clean side of the  
23 power plant. It's not part of the primary side.

24 Well, back in the '80s, the original steam  
25 generators for Turkey Point had some very, very tiny

1 leakage, but that resulted in some contamination of the  
2 secondary side. And so what was in the project was a  
3 nominal amount of dollars in the event that some of that  
4 secondary side components, once we removed it, that we  
5 would not be able to free release it or salvage it, that  
6 we would have to treat it as radioactive waste. And so  
7 it was identified as a risk and a very conceptual  
8 estimate of an additional 11 -- it could be 11 or \$13  
9 million. I have a lot of numbers in my head for a \$2  
10 billion project.

11 But, nonetheless, that is one that got my  
12 attention is we are putting \$11 million, and the project  
13 is taking a \$11 million hit because someone raised the  
14 potential that the secondary may have internal  
15 contamination and it's going to be very expensive to  
16 dispose of.

17 Now, I can't mitigate that risk overnight, but  
18 I have a project plan, and I have someone working on  
19 that. And I don't expect all that to come to fruition.  
20 In fact, I suspect it will be a fraction of that cost.  
21 But until we get to the end answer, however many months  
22 it takes, that \$11 million will be there. So not that  
23 entire amount is definitely hardware. A certain portion  
24 of that is allocated for scope not defined, as well as  
25 risk, things that people thought this could occur. I

1 don't have an answer yet. I may -- that engineering for  
2 that is going to occur next year, and then I can give a  
3 definitive number for that.

4 Q. And at the end of that process, your estimate  
5 is that the probability of the 2.3 billion being more or  
6 less is P50, correct? Is that what you said earlier?

7 A. That's what I said earlier. The key is cost  
8 certainty -- cost certainty comes with completing the  
9 design engineering. And as I stated earlier, okay, if  
10 we would have done the LAR engineering first, then all  
11 the design engineering, then you would spend a year  
12 estimating, and then you could provide a project  
13 estimate, which is what most people are used to when  
14 they get an estimate to have their house reroofed or,  
15 you know, a brake job done on their car, so to speak.

16 And if we were to take that approach, and  
17 that's what the Legislature and this Commission had the  
18 wisdom to do, is you wouldn't have any benefit, you  
19 know, for the customers. And so you do that in  
20 overlapping phases and you sequence it with the  
21 refueling outage so that you bring the megawatts sooner.  
22 But with that, because the engineering isn't done, you  
23 trade off a huge customer benefit for cost uncertainty  
24 for the first few years of the project until the  
25 engineering is done. That's the trade-off.



1 think they could accept the License Amendment Request.  
2 We provided push back on that for the basis for that and  
3 started discussions with senior management.

4 Q. And, essentially, what the NRC staff told you  
5 was you really had two options. One, you could withdraw  
6 your request; or, two, you could not withdraw it and get  
7 a denial notice, correct?

8 A. The process is that if you do not withdraw  
9 your License Amendment Request you will get a denial  
10 request, that is correct.

11 Q. Okay. So, then, I guess sequencing again,  
12 your senior management already had a meeting set up on  
13 the 12th of August with senior NRC staff, correct?

14 A. That's correct, and we began the escalation of  
15 the issue with our management, and they began the  
16 escalation with their management.

17 Q. And your objective was to try to turn them  
18 around, was it not, with respect to their decision  
19 either to deny or to require you to withdraw?

20 A. That is correct.

21 Q. And I tried to take notes when you were going  
22 through this because all of this is happening pretty  
23 close to the hearing. Do you know, wasn't the discovery  
24 cutoff date in this hearing on August 12th, do you know  
25 that?

1           **A.** No, I do not know what the cutoff is for the  
2 hearing.

3           **Q.** But this decision of the NRC that basically  
4 resulted in you withdrawing this application, I think  
5 you testified it will have additional cost to the  
6 project, correct?

7           **A.** That is correct. And I further explained that  
8 the engineering that was done is good engineering. They  
9 are asking for -- to go to another whole level, so that  
10 is additional engineering to be done. So there is a  
11 cost associated with that.

12           **Q.** And the costs, I think you had used the  
13 phrase -- you had said 125 million or 150 million, that  
14 you expected there to be increased cost, not of that  
15 magnitude, but do you know the order of magnitude of  
16 costs that will flow from this decision as we sit here  
17 today or is that something that is to be decided as time  
18 goes forward?

19           **A.** No, I was referring to the amount that we have  
20 spent on the License Amendment Request process for our  
21 Florida plants is on the order of around \$100 million,  
22 and we forecast, you know, approximately another 20 or  
23 25 million. The additional engineering to be done here  
24 to satisfy the technical reviewers could be on the order  
25 of a million or a million and a half. I would rather

1 not speculate and say this is definitely the number, but  
2 it will probably be on that order of magnitude for the  
3 engineering analysis. If there are additional  
4 modifications required by the NRC to the spent fuel pool  
5 to allow extended power uprate, then that would be  
6 additional cost.

7 Q. Right. And with respect, I think the two  
8 variables were the additional cost and the additional  
9 time, correct, that resulted from this withdrawal?

10 A. Yes, there is the additional engineering  
11 analysis --

12 Q. Right.

13 A. -- that has not yet been performed. The time  
14 aspect of it is it takes time to do the engineering and  
15 that is what you are paying for. The time variable that  
16 I was referring to is the time it will take the NRC to  
17 review the resubmittal and whether or not it will have  
18 an impact on the scheduled refueling outage, and that is  
19 yet to be determined. However, one of our contingencies  
20 is to perform all the modifications and do the power  
21 ascension on line, which we call that an  
22 on-line implementation which we have done before.

23 The other impact, again, since the rules are  
24 changing, the staff interim guidance on spent fuel pool  
25 criticality just came out last night, or we just got a



1 copy of it last night or today, I was informed. And  
2 it's just going to be going on the public register for  
3 comment. That's going to be the standard that we are  
4 going to have to live to, and that could require  
5 physical modifications to the existing spent fuel pools  
6 at Turkey Point and St. Lucie. And until we complete  
7 that analysis, I cannot tell you the extent of that  
8 physical modification.

9 Q. All right. Your testimony in this case,  
10 there's an Issue Number 22 that says, and I quote, what  
11 system and jurisdictional amount should the Commission  
12 approve as FPL's reasonable actual/estimated 2010 cost  
13 and estimated true-up amounts for the extended power  
14 uprate project. Your testimony speaks to that issue,  
15 correct? Yes/no.

16 A. Yes.

17 Q. Okay. And are you aware that Public Counsel's  
18 position, which FIPUG agreed with, was that OPC agrees  
19 with staff's proposal to conduct a more detailed  
20 examination of the costs in a separate docket. You're  
21 aware that that's the position of FIPUG and OPC with  
22 respect to that issue?

23 A. No, I'm not aware of what your position is.

24 Q. The fact that there could be additional cost  
25 associated with this withdrawal, wouldn't you agree that

1 allowing the parties the opportunity to dig into this  
2 issue further as it develops to understand the magnitude  
3 of those costs would be beneficial in determining  
4 whether these costs were prudently incurred or  
5 imprudently incurred?

6 **A.** First, let me speak to the characterization.

7 **MR. MOYLE:** Madam Chairman --

8 **THE WITNESS:** You tied it to the withdrawal.

9 **CHAIRMAN ARGENZIANO:** Hang on one second.

10 Mr. Moyle.

11 **MR. MOYLE:** You know, I mean, obviously, the  
12 Commission rule is the yes/no, and then the explanation.  
13 I'm just simply trying to ask a yes/no question --

14 **CHAIRMAN ARGENZIANO:** Okay, but would you --

15 **MR. MOYLE:** -- which is should additional  
16 time -- would additional time help ascertain the cost  
17 associated with the withdrawal that a future Commission  
18 may decide could be prudent or could be imprudent?  
19 Would additional time help ascertain those costs?

20 **THE WITNESS:** Yes, additional time would help  
21 ascertain those costs.

22 **BY MR. MOYLE:**

23 **Q.** And you were asked a few questions about the  
24 Point Beach uprate project, correct?

25 **A.** That's correct.

1           Q.    Okay.  Did the Point Beach uprate project also  
2 have a withdrawal of a requested licensing action for  
3 its extended power uprate efforts?

4           A.    The License Amendment Request with the  
5 extended power uprate for Point Beach has not been  
6 withdrawn.

7           Q.    Okay.  Throughout the country some of these  
8 extended uprate projects have gone forward, correct, and  
9 have been completed?

10          A.    Yes, there are a number of extended power  
11 uprate projects that have been accomplished in the  
12 United States.  The boiling water reactors, there are a  
13 large number of those.  As far as pressurized water  
14 reactors, in the context of a true extended power  
15 uprate, although if you check the NRC website you will  
16 see a couple of other listed, but a true extended power  
17 uprate has been Ginna.

18          Q.    The other line of questions I have, just  
19 briefly.  You have all of these confidential documents  
20 in front of you, do you not, that staff identified as an  
21 exhibit?  I wanted to direct your attention to FPL Bates  
22 stamp document 152887, which is a letter dated  
23 February 19th, 2010.

24          A.    Did you say 152887?

25          Q.    Yes, 152887.

1           **A.**    I'm not there yet.

2           **Q.**    And 152888.  It's a February 19th, 2010,  
3 letter.  And there is actually a cover page associated  
4 with it, 152886.  And just tell me when you are there.

5           **COMMISSIONER SKOP:**  Mr. Moyle, if I could ask  
6 what Bates number is that, because some of the documents  
7 we have you have to scroll through them.  Do you have a  
8 front cover Bates page and then a subsequent Bates page?

9           **MR. MOYLE:**  Yes.  The Bates page on the very  
10 first is 152886, and then it's 152887, and then 152888,  
11 according to the information I have.

12          **COMMISSIONER SKOP:**  That's what I thought it  
13 was.

14          **MR. YOUNG:**  It's at the bottom of the page,  
15 Commissioner.  And, Madam Chairman, it's my  
16 understanding that this letter is no longer confidential  
17 except for the name of the employee and the position, I  
18 think.

19          **MR. ANDERSON:**  Yes.  All the names and titles,  
20 I believe -- just to be clear, there's a public version  
21 of this and there is a nonpublic.  It's just -- we want  
22 to be careful how we proceed.

23          **CHAIRMAN ARGENZIANO:**  You say all names are  
24 confidential and positions.

25          **MR. YOUNG:**  Except for the Commission's ruling

1 on the one individual.

2 **COMMISSIONER SKOP:** The one individual,  
3 Mr. Jim Robo, who is president and chief operating  
4 officer of FPL Group at the time. Actually, of FPL  
5 Group at the time of this letter was withheld from being  
6 confidential.

7 **CHAIRMAN ARGENZIANO:** Okay.

8 **BY MR. MOYLE:**

9 Q. Just a couple of questions on this letter.  
10 The person who signed this letter, are they still with  
11 FPL, do you know?

12 A. No, they are not.

13 Q. And you were asked questions previously about  
14 the change in management related to the EPU project.  
15 You talked about succession planning, but the change in  
16 management related to the EPU project didn't have  
17 anything to do with succession planning, did it?

18 A. Yes, succession planning does factor into  
19 that. It's part of my development to run a major  
20 construction project. I have been in line operations  
21 most of my career.

22 Q. So counsel for FPL has indicated this letter  
23 is declassified or not confidential. The letter  
24 suggests that on the second page that there was trouble  
25 with the EPU project. And it says, quote, the trouble

1 was enough to replace the entire senior project team.

2 Do you disagree with that statement?

3 A. Yes, I do.

4 Q. So you were involved and had knowledge of the  
5 senior project team and how they were performing?

6 A. I disagree with that statement in the context  
7 that the entire senior project team was replaced, as I  
8 testified to earlier.

9 Q. With respect to any members of that project  
10 team that were replaced, was the reason that they were  
11 replaced was because of poor performance or trouble with  
12 the EPU project?

13 A. As I mentioned before, the very most senior  
14 people associated with that project were solid  
15 performers, had been solid performers for decades. I  
16 already testified to the fact that there was a  
17 reorganization to take the EPU and separate the EPU from  
18 the projects and fuels organization. That required a  
19 division of responsibility. There were some  
20 reassignments and so that's part of the reason was to  
21 decentralize it. Part of the reason was to align skill  
22 sets and functions. Part of the reason was to get  
23 different performance and put a different area of focus  
24 on the project.

25 Q. Okay. The bottom of the first page, 152887,

1 there's a statement, finally, in July of 2009, senior  
2 management decided it was time to inform executive  
3 managers of the poor condition of EPU, which  
4 precipitated the replacement of the entire EPU project  
5 senior management team. I take it from your previous  
6 answers that you would take exception with that sentence  
7 in this letter, is that right?

8 A. I'm sorry, I lost the sentence.

9 Q. It's the second from the last sentence at the  
10 bottom of Page 1. Finally, in July of 2009.

11 A. I'm with you. Yes, I do not agree with the  
12 characterization that that statement makes.

13 Q. Do you know the individual who wrote this  
14 letter?

15 A. Yes, I do.

16 Q. As we sit here today, I take it you question  
17 his veracity?

18 A. No, I don't question his veracity. I have a  
19 difference of opinion in regard to how he characterizes  
20 that.

21 MR. MOYLE: Okay. Thank you. That's all I  
22 have.

23 CHAIRMAN ARGENZIANO: Commissioner Skop.

24 COMMISSIONER SKOP: Thank you, Madam Chair. A  
25 couple of follow-up questions and I will try and make

1 this as brief as possible.

2 Mr. Jones, if I could direct you back to the  
3 same letter that Mr. Moyle asked you to refer to. And I  
4 don't have the Bates page in front of me, but we -- for  
5 the sake of discussion, we know what letter we are  
6 talking about. This is the employee letter dated  
7 February 19th, 2010, that was directed to Mr. Hay, who  
8 is FPL Group Chairman and Chief Executive Officer. Do  
9 you see the first page of the letter?

10 **THE WITNESS:** Yes, I do.

11 **COMMISSIONER SKOP:** The last sentence at the  
12 first page, can you please read that last sentence for  
13 me?

14 **THE WITNESS:** The last sentence on the first  
15 page?

16 **COMMISSIONER SKOP:** Yes, sir, beginning with  
17 my.

18 **THE WITNESS:** My project controls group  
19 prepared detailed reviews that were presented to, it's  
20 redacted, late in July 2009 on the poor condition of  
21 EPU.

22 **COMMISSIONER SKOP:** Okay. And that redaction  
23 there is Mr. Jim Robo, who is no longer confidential.  
24 So could I ask you to re-read the sentence, noting that  
25 that information is no longer redacted, based on my



1 ruling?

2 **THE WITNESS:** My project controls group  
3 prepared detailed reviews that were presented to Mr. Jim  
4 Robo late in July 2009 on the poor condition of EPU.

5 **COMMISSIONER SKOP:** Okay. And on the second  
6 page of the letter, second paragraph, can you read that  
7 paragraph in its entirety, please?

8 **THE WITNESS:** I am concerned about how FPL  
9 will report these findings at the upcoming PSC hearings.  
10 Any information from EPU other than -- other than which  
11 was presented to management last summer will be a  
12 manipulation of the truth. Current reporting for PTN  
13 and PSL, meaning Turkey Point and St. Lucie, does not  
14 contain information showing there is serious trouble  
15 with these projects. The trouble was enough to replace  
16 the entire senior project team.

17 **COMMISSIONER SKOP:** Okay. And then can you  
18 read the first sentence of the next paragraph, please?

19 **THE WITNESS:** Enclosed with this letter are  
20 the presentations given to Mr. Robo last July. If you  
21 investigate -- do you want me to read the whole  
22 paragraph?

23 **COMMISSIONER SKOP:** No, that's fine. I think  
24 we've covered enough on that. Notwithstanding the  
25 Concentric report, do you have any reason to doubt the

1 validity of these allegations?

2 **THE WITNESS:** Yes, I do. Going to the second  
3 paragraph on Page 2, as I stated earlier, the project  
4 forecast that we had and the direction that we had  
5 coming out of July 2009 remained within our monthly  
6 reports. Those numbers are generated by the project  
7 controls organization and continued that forecast along  
8 with the progress we were making on the actions in  
9 regards -- and I won't go back through those, but in  
10 regards to ongoing activities continue to be reported to  
11 the senior execs.

12 Those same presentations with those forecast  
13 numbers were provided to PSC audit -- audit staff as in  
14 the normal course of discovery. In fact, when I learned  
15 that -- (REPORTER NOTE: Redacted confidential words  
16 removed) -- was leaving the company, I had a meeting  
17 with -- I'm sorry.

18 **COMMISSIONER SKOP:** We made a boo-boo. So how  
19 do we -- can we move to strike that or what do we want  
20 to do?

21 **MR. ANDERSON:** We move to strike that, please.  
22 It is clearly an inadvertent error.

23 **CHAIRMAN ARGENZIANO:** So moved.

24 **THE WITNESS:** Sorry. When I learned that this  
25 employee was -- he was the -- that's a title. When I

1 learned this employee was leaving the company, I had a  
2 meeting with this employee, and I showed him the  
3 executive steering committee presentations that had the  
4 forecast numbers in it, as well as the actions that were  
5 being taken by the project team. And then I also showed  
6 him the documents that we were providing in discovery  
7 that had those same forecast numbers in it. And he  
8 commented to me that, one, he was pleased that I took  
9 the time to meet with him, that he was not aware of that  
10 information, and that he was glad that that information  
11 was being shared with the senior executives and being  
12 provided to the PSC staff.

13 **COMMISSIONER SKOP:** All right. And  
14 notwithstanding your difference of opinion with the  
15 Concentric report, as identified in your management  
16 discussion, Concentric took a different position and  
17 indicated that they found the employee -- the  
18 allegations in the employer letter and the employee to  
19 be credible and that most of the allegations were indeed  
20 fact accurate, is that correct, based on the Concentric  
21 view of their own independent analysis?

22 **THE WITNESS:** Mr. Skop, it isn't that I  
23 disagree with the Concentric report, this employee is a  
24 good employee. He's credible. He knows what he is  
25 doing. He is a good -- (REPORTER NOTE: Redacted

1 confidential words removed). I disagreed with  
2 Concentric's conclusion in regard to that number being  
3 final, that number being solid, that number being well  
4 vetted and ready -- and ready for reporting, no  
5 different than the megawatts. And in that regard --

6 **COMMISSIONER SKOP:** I'm sorry, we'll get to  
7 that in a second. Just to follow up on one page of a  
8 question that Mr. Moyle asked with respect to removal of  
9 the EPU senior management team. If you could turn to  
10 Page 24 of the staff audit report, and if staff has a  
11 number that has been marked for identification yet on  
12 that document.

13 **MR. YOUNG:** 178.

14 **COMMISSIONER SKOP:** Okay. So the document is  
15 marked for identification as Document 178, which is the  
16 staff audit report for Florida Power and Light's project  
17 management internal controls for nuclear plant uprate  
18 and construction projects.

19 **MR. ANDERSON:** Could I pause for a second? I  
20 noted an inadvertent reference by the witness to a -- to  
21 a title. Could we have the same treatment in relation  
22 to that?

23 **CHAIRMAN ARGENZIANO:** Absolutely.

24 **MR. ANDERSON:** Thank you.

25 **CHAIRMAN ARGENZIANO:** Absolutely.

1           **MR. ANDERSON:** Thank you. And I will just ask  
2 that everyone, including our witness, slow down and pay  
3 careful, careful attention in relation to that.

4           **COMMISSIONER SKOP:** I certainly did not want  
5 that to come out. Again, the action of that employee  
6 was -- you know, again, you want to encourage that type  
7 of concern to come forward when it's appropriate to do  
8 so.

9           Mr. Jones, if I could turn your attention to  
10 Page 24 of the staff audit report, Commission staff  
11 audit report.

12           **THE WITNESS:** I'm there.

13           **COMMISSIONER SKOP:** Okay. And on that page  
14 under Section 3.1.2, it discusses EPU management  
15 replacement and restructure. And in response to a line  
16 of questioning from Mr. Moyle, I guess you reached  
17 different conclusions as to why the EPU -- or the EPU  
18 senior management team was removed. Can I ask you to  
19 read the first paragraph regarding the removal of the  
20 EPU senior management team on that page, please?

21           **THE WITNESS:** Excuse me, which paragraph?

22           **COMMISSIONER SKOP:** Okay. Where it begins  
23 removal of the EPU senior management team, can I ask you  
24 to read that first paragraph, please?

25           **THE WITNESS:** "In July of 2009, FPL's senior

1 management changed EPU project management teams. The  
2 significance of this event is that FPL's senior  
3 management believed the original team was not performing  
4 as expected. Senior management believed that a change  
5 in EPU management was necessary to ensure the project  
6 quality and forecasted costs were not compromised.  
7 FPL's senior management noted," and there is a Footnote  
8 3.

9 **COMMISSIONER SKOP:** We can skip the footnote.

10 **THE WITNESS:** Okay.

11 **COMMISSIONER SKOP:** And if you could just keep  
12 reading that indented paragraph and then the next  
13 sentence after that indented paragraph, please.

14 **THE WITNESS:** "Both previously assigned EPU  
15 level managers were no longer involved in the EPU  
16 project because FPL Group's Senior Management decided  
17 that changes to these leadership positions would enhance  
18 FPL's ability to bring the EPU project to successful  
19 completion, promote effective succession planning, and  
20 talent utilization, improve the quality and timeliness  
21 of forecasted project costs."

22 **COMMISSIONER SKOP:** Okay. And then the next  
23 sentence right after that, please.

24 **THE WITNESS:** The next sentence is according  
25 to FPL, the original management team had not been

1 aggressive in keeping cost estimates from the EPU  
2 contractor under control. FPL's senior management  
3 stated that the original EPU project team was not able  
4 to accomplish this. FPL's senior management further  
5 noted --

6 **COMMISSIONER SKOP:** That's fine.

7 With respect to the indentation part that you  
8 previously read, that reference is FPL -- excuse me, FPL  
9 Group Senior Management decided, is that correct?

10 **THE WITNESS:** Yes.

11 **COMMISSIONER SKOP:** Okay. So putting this  
12 into perspective, the Executive Steering committee held  
13 a line-by-line project review, or line-by-line review of  
14 the EPU project on or about July 25th, 2009. Subsequent  
15 to that, according to this staff audit report, FPL Group  
16 Senior Management decided to replace the EPU senior  
17 management team. And I guess, as we stated, Mr. Robo,  
18 who is Chief Operating Officer, who, as you testified,  
19 requested that line-by-line and attended that meeting, I  
20 guess it's interesting that the decision to replace the  
21 EPU senior management team seems to have been made at  
22 the FPL Group level, not the Florida Power and Light  
23 level, according to that information.

24 And I just picked up on that myself, so I  
25 thought I would ask you what your personal knowledge may

1 be regarding who made that decision. And that goes to  
2 my previous question about the EPU senior management  
3 team seems to be removed immediately after that July  
4 25th, 2009, meeting, or somewhere shortly thereafter.

5 **MR. ANDERSON:** Commissioner Skop, I would just  
6 ask that the questions more carefully characterize the  
7 testimony earlier today. There was no testimony that  
8 the entire team, for example, was removed, et cetera.

9 **COMMISSIONER SKOP:** And that's fine. It  
10 states that -- you know, again, I'm reading what I have  
11 before me. I wasn't there. I didn't do the staff  
12 internal audit. And, again, I'm not trying to be  
13 inflammatory. I'm trying to have a very constructive  
14 discussion.

15 So, Mr. Anderson, I do appreciate your  
16 comment. So we can couch it in the fact that maybe not  
17 every person was removed, but certainly there was an  
18 event, and that event was a line-by-line management  
19 review at a meeting that was attended by Jim Robo, who  
20 was Chief Operating Officer and President of FPL Group  
21 at the time.

22 According to your testimony, Mr. Olivera from  
23 Florida Power and Light was there. You attended the  
24 meeting. And then shortly thereafter, according to this  
25 paragraph, FPL Group senior management decided to change



1 the leadership positions that were changed. So I think  
2 that should tighten that up a little bit.

3 So do you have any personal knowledge of why  
4 FPL Group Senior Management would make that decision in  
5 lieu of Florida Power and Light management? Because  
6 there seems to be a lot of people involved in this  
7 meeting here on July 25th.

8 **THE WITNESS:** Commissioner Skop, as I recall  
9 the reorganization was announced prior to that July 25th  
10 meeting. I know I was certainly approached before that  
11 July 25th meeting. And in regards to FPL Group's senior  
12 management, I'm not privy to which of the senior  
13 executives were involved in any decision-making. I  
14 would like to point out that these two paragraphs are  
15 taken from a response that we provided which is -- we  
16 provided several paragraphs, and so to just focus in on  
17 two could characterize this improperly.

18 **COMMISSIONER SKOP:** Okay. Very well. And let  
19 me move on on that line. I think that, obviously, what  
20 was important there is the fact that the meeting was  
21 held. It was attended by high level executives from  
22 Florida Power and Light and also high level executives  
23 from FPL Group, and then there was action taken after  
24 that.

25 But let me get back to my point as to your

1 disagreement with the findings of the Concentric report.  
2 And as you previously testified, based upon the  
3 line-by-line formal review of the EPU projects that was  
4 conducted on July 25th, 2009, there was clear indication  
5 that the magnitude of the projected cost estimate had  
6 increased substantially, is that correct?

7 **THE WITNESS:** That's correct. The forecast  
8 was significantly higher than the original needs filing.

9 **COMMISSIONER SKOP:** Okay. And that was known,  
10 based on -- that was known by both FPL and FPL Group  
11 Executive Management who attended the July 25th, 2009,  
12 Executive Steering Committee meeting, is that correct?

13 **THE WITNESS:** Yes, Commissioner, that is  
14 correct. And as I stated, there was clear direction  
15 given and clearly opportunities identified to mitigate  
16 that.

17 **COMMISSIONER SKOP:** I understand, but I'm  
18 talking about the magnitude.

19 **THE WITNESS:** Okay.

20 **COMMISSIONER SKOP:** Again, the end number is  
21 going to be what the end number is going to be. But  
22 what I'm trying to get at is that there seemed to be  
23 warning flags or key indicators that, you know, caused  
24 management to be replaced, and that the cost magnitude  
25 of the projected cost estimate had increased

1 substantially. And that gets back to the point of who  
2 knew what when and why was that not disclosed in the  
3 testimony. And so my next question is, since we are on  
4 a roll here, if the FPL witness who gave testimony on  
5 September 8th, 2009, who attended that meeting on  
6 July 25th, knew or should have known that there was a  
7 clear indication that the magnitude of the projected  
8 cost estimate had increased substantially, and that  
9 witness did not amend his prefiled testimony that was  
10 given under oath to the Florida Public Service  
11 Commission to reflect this material information, then  
12 would it stand to reason that the FPL witness testimony  
13 was inaccurate and incomplete?

14 **MR. ANDERSON:** I object to the question. It  
15 contains numerous, numerous facts and assumptions not in  
16 evidence. And this is about the third time we have been  
17 through all the details in relation to this July  
18 meeting. Mr. Jones has carefully explained the context  
19 of all of those numbers and figures. I believe we have  
20 been very patient in relation to the provision of  
21 Mr. Jones. But we are also crossing over into -- you  
22 know, I believe the questions are not even questions.  
23 We are getting paragraph long statements and  
24 characterizations or what could be described as  
25 testimony. And that is not proper questioning either,

1 so we object.

2 **CHAIRMAN ARGENZIANO:** Commissioner Skop, to  
3 the objection and can you phrase questions to be  
4 questions.

5 **COMMISSIONER SKOP:** Okay. To the objection,  
6 the question goes to the heart of the veracity and  
7 accuracy of the information provided to the Florida  
8 Public Service Commission by an FPL witness that gave  
9 testimony to this Commission under oath. It requires  
10 laying a predicate to determine who knew what when. And  
11 based on that predicate that was the result of the  
12 Concentric report, which I think I have clearly  
13 established the foundation that not only Jim Robo, who  
14 was President and Chief Executive Officer of FPL Group,  
15 but Armando Olivera, based on witness testimony,  
16 attended that meeting. The witness before us attended  
17 that meeting. And the witness that gave testimony  
18 previously to the Commission, whose name has been  
19 redacted, why -- again, I accepted the argument, but I  
20 disagree with it.

21 But the bottom line is we have laid the  
22 foundation of who knew what when, so the person that  
23 gave the testimony to the Commission knew or should have  
24 known based on this witness' testimony that there was  
25 clear indication that the magnitude of the projected

1 cost estimate had increased substantially.

2 So my question, Mr. Anderson, goes to the very  
3 heart in the opinion of this witness is that if the FPL  
4 witness gave previous testimony, sworn testimony, and  
5 knew what he knew or should have known based on that  
6 July meeting, then -- and that witness did not amend his  
7 prefiled testimony while under oath to reflect this  
8 material information, then I ask the witness merely to  
9 opine whether it would stand to reason that the FPL  
10 witness testimony that was previously given on  
11 September 8th, 2009, was inaccurate and incomplete. I  
12 mean it's lengthy, but you have to be lengthy to kind of  
13 get there. I mean, I'm doing this on the fly.

14 **CHAIRMAN ARGENZIANO:** Mr. Anderson.

15 **MR. ANDERSON:** The final question itself is  
16 absolutely inappropriate. It asks for a legal  
17 conclusion of an engineering witness. In addition, the  
18 lengthy, lengthy, lengthy prelude and predicate are  
19 argumentative and characterizing of one's position. The  
20 arguments that one associates with an advocate honestly  
21 and not with a decision-maker. I am being very careful.  
22 I'm trying to --

23 **COMMISSIONER SKOP:** Let me withdraw -- let me  
24 withdraw the question and proffer what the --

25 **CHAIRMAN ARGENZIANO:** Okay. The question is

1 withdrawn, and are you going to ask a question?

2 **COMMISSIONER SKOP:** The problem here is I  
3 don't have the witness that gave his testimony, so I  
4 can't examine that witness. That witness, to my  
5 understanding, is no longer an employee of Florida Power  
6 and Light Company. The problem is also with, you know,  
7 some of the deferral thing that as time goes on and we  
8 defer these items, witnesses leave, time fades, memories  
9 fade, so I'm at a little bit of a strategic disadvantage  
10 here. But I would respectfully proffer that the  
11 question I'm trying to ask the witness of, which he may  
12 not have personal knowledge, were to establish whether  
13 the testimony given under oath was accurate and complete  
14 based upon what should have been known from that  
15 July 25th meeting. And I'll just move on from that  
16 point.

17 I think that is the core of the issue, given  
18 the fact that the witness -- the witness before the  
19 Commission has indicated and responded that, yes, it was  
20 true that there was clear indication that the magnitude  
21 of the projected cost estimate had increased  
22 substantially and that was known by the people that  
23 attended the meeting, including the prior FPL witness on  
24 July 25th. I won't belabor the point. I will move on  
25 to my question.

1           **MR. ANDERSON:** And we'll note the record  
2 speaks for itself as to what the witness has said for  
3 more than four hours.

4           **COMMISSIONER SKOP:** And for the record, I  
5 would also note that you asked the question to the  
6 witness as to whether he had any changes to his prefiled  
7 testimony at that point.

8           **CHAIRMAN ARGENZIANO:** Let's do this. Let's  
9 take a break and let's do ten minutes. Thank you.

10           (Recess.)

11           **CHAIRMAN ARGENZIANO:** Okay. If everyone will  
12 take their seats. Wait a minute.

13           (Pause.)

14           **CHAIRMAN ARGENZIANO:** If I go too long, just  
15 yell like you did. That was perfect. I'm sorry that I  
16 had to make you wait that long. I just kept thinking we  
17 were going to get over that hump.

18           Okay. I think we're back on, and I want to  
19 say something first. And I know Commissioner Graham had  
20 indicated -- if you would just allow me to make a couple  
21 of comments first, I would appreciate it, and I will  
22 recognize you and then Commissioner Skop.

23           To the witness, if I could ask you to please,  
24 if you are asked a question to answer yes or no. And if  
25 you feel that you must elaborate, I can understand that,

1 and then we'll allow that. But I think that we will be  
2 here until after Christmas if we just continue. But I  
3 understand the necessity sometimes that a yes or no  
4 answer is not always the end all. So please let me  
5 know. But if you could kind of -- if it's possible,  
6 please do that.

7 The other thing I wanted to say, and it may  
8 set us on track to where we need to be. I just wanted  
9 to make a comment that I think that Commissioner Skop's  
10 subject matter that he was asking is something that I am  
11 very interested in also, and I think it's very  
12 pertinent. And I am going to read part of this, and  
13 that's why I think it's pertinent. I'm not going to go  
14 to as to whether he is being an advocate or not. I  
15 think it's very difficult. I didn't hear that. I think  
16 it is very difficult to get to where you want to go  
17 sometimes, but I want to read part of the report, and I  
18 want to make sure before I read part of that report that  
19 it is not confidential except for the names. Is that  
20 correct, and any number amount? Okay. I want to read a  
21 part of that very quickly and then make a suggestion, if  
22 I may.

23 And it is on -- let me see if I can find the  
24 page. Page 47 of 56. I'm sorry, Page 41, 41, Page 41  
25 where it begins on the bottom, next to the last



1 paragraph. The Concentric investigation also examined  
2 the 2009 Nuclear Cost-Recovery Clause proceedings to  
3 evaluate whether information provided to the FPSC during  
4 the proceedings was accurate and consistent with the  
5 standards expected for testimony before and submissions  
6 made to a regulatory agency. Concentric identified that  
7 budget estimate information provided by the  
8 vice-president, excuse me, uprates in his May 2009  
9 testimony had changed and the change was not discussed  
10 in the hearing. Concentric stated in, I'm sorry,  
11 Concentric stated in its report that while Concentric  
12 agrees that the new analysis confirmed the conclusions  
13 of Mr. Blank's testimony, we believe that -- picking a  
14 number, and I'm not going to into that -- or percentage  
15 increase in the projected cost of the EPU project should  
16 have been discussed in the live testimony on  
17 September 8th, 2009.

18 In an interview with Concentric, FPSC audit  
19 staff determined that FPL witnesses are prepared by  
20 their attorneys for potential questions that might be  
21 asked during the hearing, as most witnesses are. During  
22 the interview, Concentric agreed that Mr. Blank had  
23 participated in a line-by-line budget discussion with  
24 FPL's executive steering committee in July 2009, and,  
25 therefore, understood that the budget information

1 provided in May 2009 was indeed incorrect by the time of  
2 the hearing on September 8th, 2009. Yet when asked by  
3 FPL Attorney Anderson, if I ask you the same questions  
4 contained in your prefiled direct testimony, would your  
5 answers be the same, Mr. Blank answered, yes, they would  
6 be.

7 FPSC audit staff and Concentric agree  
8 Mr. Blank knew the budget estimate was being reviewed  
9 and likely would change. In fact, Concentric states in  
10 the Martin investigation report on September 9th, 2009,  
11 the ESC was presented with a newly revised forecast that  
12 further increased the cost -- did you say the numbers  
13 were not -- by 104 million total for both sites. This  
14 presentation stated that approximately 30 percent of the  
15 total project costs have high certainty.

16 And the reason I read that because it is  
17 pertinent and it is important to find out what happened  
18 there. But can I make the suggestion that possibly this  
19 is not the right witness, and perhaps the next witness  
20 is the person to ask that question.

21 **COMMISSIONER SKOP:** I think that the  
22 information you read, had I been able to find that,  
23 would have been able to lay a foundation to ask the  
24 witness the question without the objection by Mr.  
25 Anderson, but I'll yield.

1                   **CHAIRMAN ARGENZIANO:** The question is can we  
2 ask that question, would you be satisfied with asking  
3 that of the next -- the next gentleman is the man who  
4 wrote the report.

5                   Okay. Then explain, please. Give me an  
6 explanation.

7                   **COMMISSIONER SKOP:** I would not. What I need  
8 to do is, instead of a lengthy predicate, I need to  
9 tighten it up. It has been a long day. But the witness  
10 has already testified that there was clear indication  
11 that the magnitude of the projected cost estimate had  
12 increased substantially. He answered yes to that  
13 question.

14                   The Concentric report indicated, as you  
15 stated, that while Concentric agrees that the new --  
16 Concentric agrees that they believe that a \$300 million,  
17 or a 27 percent increase in the projected cost of the  
18 EPU project should have been discussed during the live  
19 testimony of September 8th, 2009.

20                   So my question to the witness is I know why  
21 you disagree with the Concentric report, okay. And that  
22 is on what the final number is going to be. My question  
23 to you, which you have answered yes, is that at that  
24 meeting on July 25th there was clear indication that the  
25 magnitude of the projected cost estimate had increased

1 substantially. So based on that foundation, the  
2 question I have to you is -- and let me ask one other  
3 thing. The passage that Chairman Argenziano read, is it  
4 your understanding from attending that July 25th meeting  
5 that that person was in attendance at that meeting, the  
6 prior FPL witness?

7 **THE WITNESS:** Yes, that person was in  
8 attendance at the meeting.

9 **COMMISSIONER SKOP:** Okay. So based upon  
10 attendance at that meeting and based upon your prior  
11 testimony that you just gave, he also would have had a  
12 clear indication that the magnitude of the projected  
13 cost estimate had increased substantially based upon  
14 attending that meeting, is that correct?

15 **THE WITNESS:** Yes, Commissioner, based on  
16 being -- not only being in attendance for that meeting,  
17 but his team had prepared those numbers and that  
18 forecast. And, also, I want to make sure it's clear  
19 that reorganizing the project was announced prior to  
20 this meeting. And the prior witness -- we go through a  
21 change management process for an orderly transition, and  
22 as I described before, we needed to split the EPU  
23 project and the other major capital projects apart, and  
24 you have to have people to run both organizations.

25 Having said that, the prior witness retained

1 the responsibilities for the preparation for the hearing  
2 and had access to that information. I do need to be --  
3 I do need to say again that that number was not  
4 considered a valid number and there was work to be done  
5 to validate that number, and that's where I disagree  
6 with Concentric.

7 And if I could say one other thing. You asked  
8 me a question much earlier in the day about the  
9 September 9th presentation and had the forecast changed.  
10 And I said, no, the numbers are basically the numbers.  
11 And as I look at this passage here, specifically on Page  
12 42, and the reference to the \$104 million, I want to  
13 correct my prior testimony and say the number from July  
14 to that time could have changed. They moved month over  
15 month.

16 The point I was trying to make earlier is that  
17 the numbers that go in those presentations come right  
18 out of the project controls. If you could visualize a  
19 notebook this thick of spreadsheets that roll up to that  
20 number. That number from July never goes away was what  
21 I was trying to attest to in regards to the September  
22 9th meeting. You build on that or you subtract from  
23 that.

24 **COMMISSIONER SKOP:** Let me get back to the  
25 question before the Commission. The person whose name

1 is redacted that attended the July 25th, 2009, meeting  
2 with you, you just testified by virtue of the fact that  
3 the person attended the line-by-line review, that that  
4 person would have had a clear indication that the  
5 magnitude of the projected cost estimate had increased  
6 substantially. Again, I'm framing my question not into  
7 what the ultimate dollar amount will be, but the  
8 magnitude and the indicators that the magnitude had  
9 increased substantially. The question I have to you --

10 **MR. ANDERSON:** We object even to that  
11 predicate point, because what he just said is I do need  
12 to say again that the number was not a valid number. At  
13 every turn, every one of these hypothetical questions  
14 which you are asking of this witness is  
15 mischaracterizing that vital point.

16 **COMMISSIONER SKOP:** Okay. Well, again, the  
17 witness has testified, and we can have the court  
18 reporter read it back, Madam Chair, that by virtue of  
19 attending the meeting of July 25th, 2009, and by virtue  
20 of the line-by-line discussion, there was a clear  
21 indication that the magnitude of the projected cost  
22 estimate had increased substantially. The witness  
23 answered that question yes. I'll be happy to have the  
24 court reporter read that back.

25 The witness also testified that this was known

1 by both FPL and FPL Group Executive Management who  
2 attended the July 25th, 2009, Executive Steering  
3 Committee meeting. So I hate to beat this into the  
4 thing, but the subtlety here is that they are talking  
5 about the actual number. I'm talking about indicators  
6 to say we have got a problem and the magnitude has  
7 changed.

8 So the question I have, and, Mr. Anderson, you  
9 can object to your heart's content, but the question is  
10 this: Based upon the fact that the witness has  
11 testified that the magnitude of the projected cost  
12 estimate had increased, this is my question. If the FPL  
13 witness, whose name is redacted, knew that the magnitude  
14 of the projected cost estimate had increased  
15 substantially by virtue of his attendance at the  
16 July 25th, 2009, meeting, and did not amend his prefiled  
17 testimony under oath to reflect this material  
18 information, then would it stand to reason that his  
19 testimony was inaccurate and incomplete?

20 **MR. ANDERSON:** We object, again, to the  
21 formulation of the question. You state and did not  
22 amend the testimony, et cetera. What you are doing in  
23 there is you are wrapping in an entire legal opinion  
24 which you are asking for this particular person to  
25 respond to.

1           **COMMISSIONER SKOP:** I don't have the luxury --  
2 Mr. Anderson, to your objection, I don't have the luxury  
3 of having the former FPL employee to question him on  
4 that thing, so that is part of the problem here. And,  
5 again, I can withdraw the question. I think we know the  
6 heart of what I'm trying to get at. I'll leave it to  
7 staff if they want to go after this or one of the  
8 intervenors and try and frame it --

9           **CHAIRMAN ARGENZIANO:** Do you want me to ask --

10           **COMMISSIONER SKOP:** Yes, we can ask staff if  
11 they want, because I have got a few more questions after  
12 that and I'm done.

13           **MR. YOUNG:** Commissioner Skop, that is one of  
14 my questions for Witness Reed as relates to the  
15 testimony that he -- his Concentric report that he  
16 produced when he talked about it, frankly, in that  
17 report as relates to whether the witness from last year  
18 was truthful in his statements towards the Commission.

19           **COMMISSIONER SKOP:** Okay. And, too,  
20 Mr. Young, I think the point I'm trying to adduce from  
21 the witness is that the witness testified there was  
22 clear indication that the magnitude of the projected  
23 cost estimate had increased substantially. And by  
24 virtue of the former FPL employee who gave testimony  
25 that was at that meeting, then they would have had that



1 same knowledge that the current witness has.

2 So what I'm trying to get at, if they had the  
3 same knowledge and didn't amend their testimony to  
4 reflect that material information, then I'm trying to  
5 get an answer as to whether their testimony was accurate  
6 and complete. And that's the problem I'm facing here.  
7 And Mr. Reed, I don't know whether he -- you know, the  
8 disconnect here is Mr. Reed is not an FPL employee and  
9 didn't attend the July 25th meeting.

10 **CHAIRMAN ARGENZIANO:** Okay. I want to ask  
11 counsel a question. Does a Commissioner, as I guess I  
12 have seen -- excuse me, Commissioner Skop. I have seen  
13 judges ask questions of witnesses all the time, and I  
14 would like to know -- I guess I'd like to know your  
15 opinion on the objection.

16 Commissioner Skop and then --

17 **COMMISSIONER SKOP:** Thank you.

18 The point I wanted to make, too, Madam Chair,  
19 and I apologize for interrupting, but it is directly on  
20 point. Again, Mr. Anderson's objection, I understand  
21 his basis. However, when it gets down to the veracity  
22 of testimony given under oath to the Florida Public  
23 Service Commission, you know, I was accused of being an  
24 advocate or whatever. I think it is well within my  
25 prerogative as a Commissioner for this Commission to

1 determine and make a substantial inquiry as to the  
2 accuracy and the veracity of the testimony that was  
3 given under oath. So I think we ought to have broad  
4 latitude in that regard.

5 **CHAIRMAN ARGENZIANO:** Well, that's the reason  
6 for my question.

7 **MS. HELTON:** If I'm understanding  
8 Mr. Anderson's objection correctly, I think it's that,  
9 he thinks in his opinion that perhaps Commissioner Skop  
10 is trying to draw some kind of a legal conclusion out of  
11 the witness, and the witness is not an attorney.

12 Perhaps Commissioner Skop could phrase his  
13 question --

14 **CHAIRMAN ARGENZIANO:** Could it be phrased  
15 different, or do you have to be an attorney to answer  
16 that question?

17 **MS. HELTON:** Well, I was going to give a  
18 suggestion just for Commissioner Skop, perhaps, to  
19 phrase his question -- all legalities aside, in his  
20 opinion, was the testimony given in the 2009 proceeding  
21 accurate based on the information that was learned at  
22 that meeting.

23 **CHAIRMAN ARGENZIANO:** That would get to the  
24 same point.

25 Commissioner Skop.

1                   **COMMISSIONER SKOP:** Thank you, Madam Chair.

2                   And, again, Mr. Jones, I'm not asking for your  
3 legal conclusion, and I'm not asking for you to  
4 articulate the reason why you disagree with the  
5 Concentric report. What I am asking is in relation to  
6 actual knowledge that there was clear indication that  
7 the magnitude of the projected cost estimate had  
8 increased substantially, as you testified to, whether  
9 the prior witness who knew that same information should  
10 have amended his testimony and should have amended his  
11 testimony to include that material information?

12                   **MS. HELTON:** Madam Chairman and Commissioner  
13 Skop, I think the problem is whether he should have  
14 amended his testimony. I don't think -- and I have to  
15 say I agree with Mr. Anderson there, that I'm not sure  
16 that this witness would have any basis upon which to  
17 know whether his testimony should be amended or not. I  
18 think it is a fair question, however, to ask in his  
19 opinion was --

20                   **CHAIRMAN ARGENZIANO:** I would ask in his  
21 opinion.

22                   **COMMISSIONER SKOP:** Mr. Jones, let me ask two  
23 questions as a follow-up to that. First, if you were  
24 similarly situated, based on attending that meeting on  
25 July 25th, 2009, and you knew based on your testimony

1 there was clear indication that the magnitude of the  
2 projected cost estimate for the EPU had increased  
3 substantially, as you testified to, then if you were  
4 appearing to testify before this Commission, would you  
5 have found it appropriate to amend your testimony to  
6 include the fact that the magnitude of the projected  
7 cost estimate had increased?

8 **THE WITNESS:** I don't know, because you're  
9 asking me really --

10 **CHAIRMAN ARGENZIANO:** Can you answer yes or  
11 no?

12 **THE WITNESS:** I do not know.

13 **CHAIRMAN ARGENZIANO:** Okay.

14 **COMMISSIONER SKOP:** All right. On that same  
15 thought, if the FPL witness that provided live testimony  
16 on September 8th, 2009, who attended that meeting with  
17 you, and also based on your testimony, should have had a  
18 clear indication that the magnitude of the projected  
19 cost estimate had increased substantially by virtue of  
20 attending that meeting, in your opinion, should that  
21 witness have amended his testimony to reflect that  
22 material information?

23 **MR. ANDERSON:** Same objection. Same  
24 objection. In fact, just to be -- you know, Ms. Helton  
25 I think formulated an unobjectionable question. The

1 fundamental problem with these questions is they have  
2 these front-end predicates, which are not right.

3 **COMMISSIONER SKOP:** Why don't I defer to our  
4 legal staff to ask an unobjectionable question in that  
5 same line, and then I'll continue my questions that I  
6 have more thought out.

7 **MS. HELTON:** Since I am here in an advisory  
8 capacity, I don't feel comfortable asking the question.  
9 Perhaps Mr. Young or Ms. Bennett could remember the  
10 question that I suggested to Commissioner Skop and they  
11 can ask it.

12 **COMMISSIONER SKOP:** I hate to do this, but  
13 that's what I intend to do.

14 **MR. YOUNG:** Madam Chairman, if Commissioner  
15 Skop can repeat the question and I can go from there.

16 **CHAIRMAN ARGENZIANO:** Well, wasn't it a little  
17 something like in your opinion.

18 **MR. YOUNG:** Okay. I got it.

19 **CHAIRMAN ARGENZIANO:** Okay. I think you have  
20 it.

21 **COMMISSIONER SKOP:** It's in your opinion,  
22 should the FPL witness should have amended his  
23 testimony.

24 **CHAIRMAN ARGENZIANO:** Okay. Well, then, you  
25 just asked the question.

1 Mr. Jones -- he just asked the question.

2 **COMMISSIONER SKOP:** Mr. Jones, should the FPL  
3 witness --

4 **CHAIRMAN ARGENZIANO:** In your opinion.

5 **COMMISSIONER SKOP:** -- in your opinion, have  
6 amended his testimony, period. Yes or no?

7 **THE WITNESS:** No.

8 **COMMISSIONER SKOP:** Why? Based on the fact  
9 that he had clear indication of the magnitude of the  
10 projected cost estimate had increased substantially, as  
11 you testified by attendance at that meeting?

12 **THE WITNESS:** He clearly had, as I stated  
13 earlier, knowledge of the change in the forecast, as  
14 well as he clearly had knowledge of all the  
15 opportunities in regards to mitigating that forecast,  
16 and he clearly had knowledge of all project activities  
17 that were going, and he clearly had knowledge of all the  
18 directions from senior management to mitigate such to  
19 reduce that. And so, therefore, I don't want to speak  
20 to the state of his mind, but one could conclude that he  
21 knew that that was not a valid acceptable number. No  
22 different than the increase in megawatts.

23 The position that you put me in is when I  
24 think about prudence is that I have the benefit of  
25 hindsight of where the project is now. And so,

1 therefore, it is hard for me to transport myself exactly  
2 back in time, other than going back and looking at the  
3 facts at the time, which I just stated.

4 **CHAIRMAN ARGENZIANO:** Okay. I have a question  
5 for you, because now that brings up a question that I  
6 have. In your opinion, knowing that that individual  
7 whose name is confidential understood that the budget  
8 information -- and I'm going to read it right from the  
9 line here -- understood that the budget information  
10 provided in May 2009 was indeed incorrect by the time of  
11 the hearing, do you still think -- is your opinion  
12 still, no, that he shouldn't have amended, even though  
13 he knew it was incorrect?

14 **MR. ANDERSON:** I think the Chairman is reading  
15 from the Concentric conclusion as opposed to anything  
16 the witness talked about.

17 **CHAIRMAN ARGENZIANO:** Yes, I did read from the  
18 Concentric.

19 **MR. ANDERSON:** And, Mr. Jones, you know, you  
20 can -- I would just ask that you specify what you are  
21 reading from so that the source is clear.

22 **CHAIRMAN ARGENZIANO:** Oh, I'm sorry, if I  
23 didn't say that. I thought I said it was from the  
24 report. If I didn't, it was from the Concentric report  
25 that I has just read in the entirety.

1           **MR. ANDERSON:** Can you indicate the page and  
2 line, if you want him to look at it?

3           **CHAIRMAN ARGENZIANO:** Certainly. Page 42, and  
4 I couldn't count the line. You'll have the look -- the  
5 first paragraph.

6           **MR. YOUNG:** Excuse me, Madam Chairman, I think  
7 it's the staff audit that you are looking at.

8           **CHAIRMAN ARGENZIANO:** Yes, I'm sorry. I'm  
9 talking about the Concentric report, and, yes, it is the  
10 staff audit. I'm sorry. And I hope that is the way I  
11 identified it the first time when I read it. If not,  
12 I'll make that correction now.

13           **MR. ANDERSON:** May I just check that the  
14 witness does have the page and the report in front of  
15 him, because that helps.

16           **THE WITNESS:** Yes.

17           **CHAIRMAN ARGENZIANO:** The page is 42, and it  
18 is the top paragraph, beginning with in an interview.

19           **MR. ANDERSON:** Thank you. I appreciate that.

20           **CHAIRMAN ARGENZIANO:** Thank you. I didn't  
21 realize I had made that mistake. Thank you.

22           Where it indicates that --

23           **THE WITNESS:** Yes, I'm with you.

24           **CHAIRMAN ARGENZIANO:** Okay. I think the fifth  
25 line down. And I am just simply asking if knowing that



1 line, where it does read understood that the budget  
2 information provided in May 2009 was indeed incorrect,  
3 dot, dot, dot, that your opinion would still remain the  
4 same that, no, he should not have amended his comments,  
5 his report.

6 **THE WITNESS:** Yes, my opinion remains the  
7 same. I read this, and this is someone's opinion in  
8 regards to correct or incorrect.

9 **CHAIRMAN ARGENZIANO:** Very well. Thank you.  
10 Commissioner Skop, did you have another  
11 question?

12 **COMMISSIONER SKOP:** Yes, I have a few more  
13 questions.

14 Mr. Jones, to the Chairman's prior question  
15 that you disagreed with, those are the findings of  
16 Concentric, which was independently -- I mean, which was  
17 retained to provide an independent analysis of the facts  
18 associated with the accuracy of information provided to  
19 the Florida Public Service Commission, is that correct?

20 **THE WITNESS:** Yes, Commissioner, that's  
21 correct.

22 **COMMISSIONER SKOP:** Okay. And they take a  
23 different conclusion based upon their own independent  
24 analysis that you disagree with, correct?

25 **THE WITNESS:** Yes, that is correct.

1                   **COMMISSIONER SKOP:** Okay. All right. Just a  
2 few more questions.

3                   Mr. Jones, as part of an April 2nd filing with  
4 the Securities and Exchange Commission, that AK-FD  
5 disclosure contained a letter dated April 2nd that was  
6 directed to team. And as an employee of Florida Power  
7 and Light Company, did you receive a copy of that letter  
8 that appears to be sent to employees regarding the  
9 anonymous employee letters?

10                  **MR. ANDERSON:** What document is this, again,  
11 please?

12                  **CHAIRMAN ARGENZIANO:** Can you repeat that,  
13 Commissioner Skop?

14                  **COMMISSIONER SKOP:** Okay. I'm asking if  
15 Mr. Jones received a copy of an April 2nd letter from  
16 Mr. Hay to team related to the anonymous employee  
17 letters. And that was filed as an attachment to a  
18 Securities and Exchange filing AK under Regulation FD on  
19 April 2nd, 2010.

20                  **CHAIRMAN ARGENZIANO:** Did you get that,  
21 Mr. Anderson, or do you need a minute to get it?

22                  **MR. ANDERSON:** I do, but I'm puzzled because  
23 this involves in no respect the nuclear cost-recovery  
24 clause or anything we've talked about.

25                  **COMMISSIONER SKOP:** I believe, Madam Chair --

1           **MR. ANDERSON:** There is no foundation for it;  
2 there is no relation of this to any issue.

3           **COMMISSIONER SKOP:** Okay. Let me attempt to  
4 lay a foundation. As an FPL employee, did you receive a  
5 letter from Mr. Hay directed to team on April 2nd, 2010,  
6 that addressed the subject of anonymous employee  
7 letters?

8           **THE WITNESS:** Commissioner Skop, if I could  
9 see the letter I would feel more comfortable answering  
10 the question.

11           **COMMISSIONER SKOP:** I need to make a copy real  
12 quick. So if I could -- if we could hold in place.

13           **CHAIRMAN ARGENZIANO:** Okay. Let's get a copy.  
14 He needs to be able to see that letter. Do we have an  
15 extra copy that -- okay. Do you have a different  
16 question you may get to while we're doing that?

17           **COMMISSIONER SKOP:** Again, my different -- my  
18 next question pertains to that. I'm laying the  
19 foundation for my final question.

20           **CHAIRMAN ARGENZIANO:** Okay. Then we are kind  
21 of on an informal recess until the copy gets made.  
22 Anybody needs to -- remember, in 15 minutes if we are  
23 not done, and you walk outside without somebody inside  
24 to let you back in, you will be locked out.

25                           (Off the record.)

1           **CHAIRMAN ARGENZIANO:** We're back on.

2           **COMMISSIONER SKOP:** Madam Chair, I'm not so  
3 sure that the copies we passed out -- and, again, the  
4 intent was to make copies without the highlight, so,  
5 again, I'm not sure how that got highlighted.

6           **CHAIRMAN ARGENZIANO:** Does it matter?

7           **COMMISSIONER SKOP:** I don't believe it  
8 matters, but it may warrant an objection that could be  
9 otherwise cured by having an unhighlighted copy of the  
10 document. But for purposes --

11          **CHAIRMAN ARGENZIANO:** Okay.

12          **COMMISSIONER SKOP:** Mr. Jones, I want to give  
13 you a minute to review this letter that was dated  
14 April 2nd, 2010, addressed to team that was attached as  
15 part of an AK filing under Regulation FD that was filed  
16 with the Securities and Exchange Commission on  
17 April 2nd, 2010. Do you see that letter?

18          **THE WITNESS:** I have the letter, yes.

19          **COMMISSIONER SKOP:** Okay. As an FPL employee,  
20 did you receive a copy of that letter that was directed  
21 to team?

22          **THE WITNESS:** Yes.

23          **COMMISSIONER SKOP:** Okay. Thank you. The  
24 first highlighted section at the bottom of the page --

25          **MR. ANDERSON:** We do not have highlights,

1 Commissioner Skop.

2 **COMMISSIONER SKOP:** Okay. I don't know what  
3 has been passed out and what hasn't been passed out.

4 **CHAIRMAN ARGENZIANO:** I do.

5 **MS. HELTON:** While we are kind of interrupted,  
6 maybe it might be good if we could just go ahead, for  
7 purpose of a clear record, give this an exhibit number  
8 for identification purposes.

9 **COMMISSIONER SKOP:** Well, my preference would  
10 be to enter into the record an unhighlighted copy of the  
11 letter. That was my intent, but I couldn't seem to get  
12 the copies that --

13 **CHAIRMAN ARGENZIANO:** All right. Well, can we  
14 do that afterwards?

15 **COMMISSIONER SKOP:** I think we can do that  
16 afterwards.

17 **CHAIRMAN ARGENZIANO:** Okay.

18 **COMMISSIONER SKOP:** So, I mean, the highlight  
19 is not intended to be on the document, okay. That was  
20 my own personal highlight to attract my attention to a  
21 position on the page.

22 All right. Mr. Jones, you testified that you  
23 received a copy of this letter dated April 2nd, 2010,  
24 from Mr. Hay, who is the Chairman and CEO of FPL Group.  
25 And the last paragraph on the first page, can you read

1 the first sentence of that paragraph, please, beginning  
2 with the words, we are proud?

3 **THE WITNESS:** Yes. "We are proud that the  
4 quality of major company processes for validating the  
5 accuracy of information we furnished to our external  
6 stakeholders.

7 **COMMISSIONER SKOP:** Keep going.

8 **THE WITNESS:** I think I was going a little  
9 fast.

10 **COMMISSIONER SKOP:** Okay. Can you --

11 **MR. ANDERSON:** At this time I'd like to go  
12 ahead and interpose an objection. This letter does not  
13 come within one hundred yards of the testimony of this  
14 witness. This witness did not write the document and  
15 did not participate in the preparation of the document.  
16 It relates in no way to any issue at the NCRC  
17 proceeding. And, yes, looking at this letter, we are  
18 proud of the quality of our company processes for  
19 validating the accuracy of information we furnish to  
20 external shareholders. Yes, that is absolutely true,  
21 but it has absolutely nothing to do with this proceeding  
22 or this case, and we go farther and farther afield as  
23 the hours proceed.

24 **COMMISSIONER SKOP:** Madam Chair, to the  
25 objection, I respectfully disagree. I'm laying a

1 foundation to ask the witness a question that the  
2 witness would have direct personal knowledge of in  
3 relation to an employee letter. So, again, I'm laying  
4 the foundation between the letter that Mr. Hay sent to  
5 employees on April 2nd, 2010, that was part of the  
6 Securities and Exchange filing which the witness has  
7 testified as an FPL employee he received a copy of.

8 That is critical to the question that I am  
9 going to ask on my subsequent questions. So I am merely  
10 laying a foundation to avoid an objection. I think I  
11 should be given broad latitude because it pertains to  
12 the witness' opinion and some of the veracity of  
13 statements that have been made to the Florida Public  
14 Service Commission.

15 **MR. ANDERSON:** I'm sorry, two things.  
16 Constructively I suggest just asking that question,  
17 then. We do object to this document and we ask for a  
18 ruling.

19 **CHAIRMAN ARGENZIANO:** Legal counsel to the  
20 objection and to Commissioner Skop's purpose for laying  
21 the foundation. And could the question be asked without  
22 the document?

23 **COMMISSIONER SKOP:** (Indicating negatively.)

24 **CHAIRMAN ARGENZIANO:** No, I didn't think so.  
25 Okay.

1           **MS. HELTON:** Madam Chairman, my recommendation  
2 is to go a little bit further down this line and see  
3 where we're going, and allow Commissioner Skop to ask  
4 the next question or two. And if we haven't reached the  
5 point where it all comes together, then maybe we can  
6 revisit it.

7           **CHAIRMAN ARGENZIANO:** Well, we have an  
8 objection.

9           **MS. HELTON:** To do that you would have to  
10 overrule the objection at this time.

11           **CHAIRMAN ARGENZIANO:** Well, at this time I  
12 will overrule the objection. And, Commissioner Skop, if  
13 you can move us down the line.

14           **COMMISSIONER SKOP:** Thank you.

15           Mr. Jones, the first paragraph on that letter  
16 that you testified that you received on or about  
17 April 2nd, 2010, can you read the full sentence  
18 beginning with the word, we, of that last paragraph,  
19 please?

20           **THE WITNESS:** We are proud that the quality of  
21 major company processes for validating the accuracy of  
22 information we furnish to our external stakeholders  
23 continues to satisfy scrutiny.

24           **COMMISSIONER SKOP:** Thank you. With respect  
25 to the employee complaint letter that you indicated that



1 you were interviewed regarding and that you had seen a  
2 copy of, which the name of the person remains  
3 confidential, the April 2nd letter deals with the  
4 anonymous employee complaints. The employee letter of  
5 February 19th, 2010, deals with the actual redacted name  
6 of an employee who made a complaint.

7 And the question that I would like to ask on  
8 the employee letter in the Concentric report that you  
9 talked about there previously, and I'll want to ask you,  
10 that employee letter which was in parallel with, you  
11 know -- which was sent to FPL Group management prior to  
12 the April 2nd being sent to the team, there was an  
13 investigation conducted. But the concerns expressed in  
14 the employee letter indicated concern about how FPL  
15 would report the findings of the upcoming PSC hearings,  
16 and that any information from the EPU other than which  
17 was presented to management last summer will be a  
18 manipulation of the truth. Okay.

19 So my question, based upon your knowledge of  
20 the employee letter and its concerns and the existence  
21 of that letter and the existence of the findings of the  
22 Concentric report which you may or may not agree with,  
23 but --

24 **CHAIRMAN ARGENZIANO:** The question.

25 **COMMISSIONER SKOP:** The question. I'm trying

1 to look at my small notes.

2 **CHAIRMAN ARGENZIANO:** Okay.

3 **COMMISSIONER SKOP:** Okay. My question is as  
4 it pertains to the accuracy of the information provided  
5 to the Florida Public Service Commission -- let me see.  
6 Hold on. Yes, I want a minute. I'm trying to rephrase.

7 The common element between the anonymous  
8 letters and the employee letter of February 19th, 2010,  
9 one common element, again, seems to be pertaining to the  
10 accuracy of information provided to the Florida Public  
11 Service Commission. My question is, based upon the  
12 existence of the employee letter dated February 19th,  
13 2010, and the subsequent findings of the Concentric  
14 report, which brought into question the veracity of  
15 statements made under oath to the Florida Public Service  
16 Commission, did it occur to you that the employee  
17 complaint letter dated February 19th, 2010, should be  
18 made public?

19 **MR. ANDERSON:** We object to that question.  
20 That is a multi, multi, multi-part question. I couldn't  
21 even begin to follow it. I think if the information is  
22 desired to be elicited of the witness, ask a direct  
23 question of the witness. There is -- look at the basic  
24 predicate of that. It began with the common element  
25 between anonymous letters and this letter were X. There

1 was no even discussion or foundation that the witness  
2 even read the common letter. I just suggest asking  
3 plain simple questions.

4 **COMMISSIONER SKOP:** All right. I will reframe  
5 the question.

6 **CHAIRMAN ARGENZIANO:** Commissioner Skop, if  
7 you can reframe the question, and then I think I'm going  
8 to make a decision for the rest of the day.

9 **COMMISSIONER SKOP:** All right. Thank you.

10 Mr. Jones, you have read the employee  
11 complaint letter dated February 19th, 2010, that was  
12 directed to Mr. Hay, is that correct?

13 **THE WITNESS:** Yes, I have.

14 **COMMISSIONER SKOP:** Okay. And the concern  
15 expressed in that letter is the accuracy of information  
16 and how information would be reported to the Florida  
17 Public Service Commission, is that not correct, that one  
18 of the allegations in that letter has that very concern  
19 in it?

20 **THE WITNESS:** Yes. It states that it is  
21 concerned about how FPL will report these findings at  
22 the upcoming PSC hearings.

23 **COMMISSIONER SKOP:** Okay. And the finding of  
24 the Concentric report, which you disagree with, but the  
25 finding of the Concentric report which was prepared

1 independently concludes that the witness should have  
2 amended his testimony to address a \$300 million or  
3 27 percent cost escalation at the September 8th, 2009,  
4 hearing, correct?

5 **MR. ANDERSON:** I suggest that -- I ask that  
6 the witness be pointed to the specific portion of the  
7 report rather than have it paraphrased.

8 **COMMISSIONER SKOP:** Okay. Very well. On  
9 the -- well, let's go to the staff audit report because  
10 it is quicker that way. And what is the -- 178,  
11 Mr. Young, I guess?

12 **CHAIRMAN ARGENZIANO:** I think it was 178. Is  
13 that correct, the staff audit report?

14 **MS. HELTON:** Yes, ma'am. That's my  
15 recollection, 178.

16 **CHAIRMAN ARGENZIANO:** 178, okay.

17 **COMMISSIONER SKOP:** If we go to what has been  
18 marked for identification as Exhibit 178, and I believe  
19 it's on Page 41 of the staff audit report.

20 **CHAIRMAN ARGENZIANO:** Everybody there? Okay.

21 **COMMISSIONER SKOP:** Okay. Can you read the  
22 last paragraph on Page 41 of the staff audit report?

23 **THE WITNESS:** The inset?

24 **COMMISSIONER SKOP:** Yes.

25 **THE WITNESS:** While Concentric agrees that the

1 new analysis confirm the conclusions in Mr. Blank's  
2 testimony, we believe that a \$300 million, or 27 percent  
3 increase in the projected cost of the EPU project should  
4 have been discussed in the live testimony on  
5 September 8th, 2009.

6 **COMMISSIONER SKOP:** All right. Would you  
7 agree that the Concentric finding deals with the  
8 veracity of the testimony given in the Florida Public  
9 Service Commission for that witness?

10 **MR. ANDERSON:** I object. The document speaks  
11 for itself, and he is asking the wrong witness.

12 **CHAIRMAN ARGENZIANO:** Perhaps it should be the  
13 other witness.

14 **COMMISSIONER SKOP:** I'll try and reframe.

15 Mr. Jones, based upon reading the Concentric  
16 finding at the bottom of Page 41 of the staff audit  
17 report, which has been marked for identification as  
18 Exhibit 178, does that not relate to how information is  
19 provided to the Florida Public Service Commission?

20 **THE WITNESS:** Yes, this paragraph is in that  
21 context.

22 **COMMISSIONER SKOP:** Okay. And that was a  
23 concern in the employee letter dated February 19th,  
24 2010, correct, the letter that you read?

25 **THE WITNESS:** No, Commissioner. I believe the

1 employee stated in the upcoming Florida Public Service  
2 Commission hearings.

3 **COMMISSIONER SKOP:** But the general concern  
4 was the accuracy of information provided to the Florida  
5 Public Service Commission, is that correct?

6 **MR. ANDERSON:** I would object. That letter  
7 speaks for itself, and I believe the witness has  
8 accurately characterized exactly what it does say.

9 **CHAIRMAN ARGENZIANO:** Commissioner Skop.

10 **COMMISSIONER SKOP:** I was looking to get an  
11 answer from the witness, but I would take Mr. Anderson's  
12 comments as an objection, is that correct, Mr. Anderson?

13 **CHAIRMAN ARGENZIANO:** He objected.

14 **COMMISSIONER SKOP:** Okay.

15 **CHAIRMAN ARGENZIANO:** Can you ask a different  
16 question or rephrase?

17 **COMMISSIONER SKOP:** I will try to rephrase to  
18 avoid an objection.

19 Mr. Jones, based on the February 19th employee  
20 letter, did the employee express concerns regarding how  
21 information would be provided to the Florida Public  
22 Service Commission?

23 **THE WITNESS:** Yes, Commissioner, he states  
24 that he is concerned about how FPL will report these  
25 findings at the upcoming PSC hearings.

1           **COMMISSIONER SKOP:** Okay. And you have read  
2 the finding of the Concentric report as it pertains to  
3 the testimony given by the name of the redacted FPL  
4 witness, is that correct?

5           **THE WITNESS:** Yes, I have.

6           **COMMISSIONER SKOP:** Okay. And that concerns  
7 the accuracy of the information provided to this  
8 Commission, is that correct?

9           **THE WITNESS:** Yes, it does.

10          **COMMISSIONER SKOP:** Okay. So does not the  
11 finding of the Concentric report and the employee letter  
12 dated February 19th, 2010, not stand in sharp contrast  
13 to the statements made in the letter sent to employees  
14 on April 2nd, 2010, with respect to the accuracy of  
15 information furnished to our external stakeholders that  
16 continues to satisfy scrutiny?

17          **MR. ANDERSON:** That is an -- objection. That  
18 is an inappropriate question for this witness.

19          **COMMISSIONER SKOP:** All right. It's getting  
20 late in the day, and I think I have made my point, so  
21 I'm going to --

22          **CHAIRMAN ARGENZIANO:** Commissioner Skop, here  
23 is what I'm going to do, because it is late in the day.  
24 I really hoped that we could get through this today.  
25 But, unfortunately, people are tired, and I can see that

1 maybe some people maybe just need to take a break away  
2 from here. And I do have several questions for Mr. Reed  
3 coming up, so I don't think that any of us need to stay  
4 here until 9:00 or 10:00 o'clock tonight.

5 Unfortunately, I was hoping we could get it  
6 done today, but I don't think that's going to happen.  
7 So I suggest that we recess until tomorrow morning at  
8 9:30.

9 I'm sorry, did I forget to do anything?

10 **MR. ANDERSON:** Well, I'm just not clear what  
11 is the status of this witness.

12 **CHAIRMAN ARGENZIANO:** Well, we didn't excuse  
13 him, so he has to sit here all night. I'm only kidding.  
14 No, I think -- Commissioner Skop, were you done with  
15 questions for this witness?

16 **COMMISSIONER SKOP:** I'm done unless staff or  
17 redirect or anything.

18 **CHAIRMAN ARGENZIANO:** Was there any other  
19 questions? So you are -- so we will excuse Mr. Jones.

20 Thank you.

21 **MS. HELTON:** Do you all have redirect?

22 **MR. ANDERSON:** No.

23 **COMMISSIONER SKOP:** And then staff will move  
24 in the other exhibits that we marked at a later point in  
25 time, is that correct?



1                   **CHAIRMAN ARGENZIANO:** And might I do this,  
2 just a little change, because I forgot something. Can  
3 we start at 9:45 tomorrow rather than 9:30? Is there  
4 any problem with doing that? 9:45 tomorrow morning.  
5 Thank you. (

6                   We're on recess.

7                   (The hearing adjourned at 6:09 p.m.)

8                   (Transcript continues in sequence with  
9 Volume 7.)

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1 STATE OF FLORIDA )  
2 : CERTIFICATE OF REPORTER  
3 COUNTY OF LEON )  
4

5 I, JANE FAUROT, RPR, Chief, Hearing Reporter  
6 Services Section, FPSC Division of Commission Clerk, do  
hereby certify that the foregoing proceeding was heard  
at the time and place herein stated.

7 IT IS FURTHER CERTIFIED that I  
8 stenographically reported the said proceedings; that the  
9 same has been transcribed under my direct supervision;  
and that this transcript constitutes a true  
transcription of my notes of said proceedings.

10 I FURTHER CERTIFY that I am not a relative,  
11 employee, attorney or counsel of any of the parties, nor  
12 am I a relative or employee of any of the parties'  
attorney or counsel connected with the action, nor am I  
financially interested in the action.

13 DATED THIS 3rd day of September, 2010.

14  
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16 \_\_\_\_\_  
17 JANE FAUROT, RPR  
Official FPSC Hearings Reporter  
(850) 413-6732

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